

NEWINGTON TOWN PLAN AND ZONING COMMISSION

March 26, 2008

Regular Meeting

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

I. ROLL CALL

Commissioners Present

Commissioner Correll
Commissioner Fox
Chairman Hall
Commissioner Kornichuk
Commissioner Pane
Commissioner Pruett
Commissioner Camerota
Commissioner Ganley
Commissioner Niro

Commissioners Absent

Commissioner Schatz

Staff Present

Ed Meehan, Town Planner

Commissioner Ganley was seated for Commissioner Schatz

II. PUBLIC HEARINGS

A. PETITION 10-08 – Newington Kiwanis Club applicant, Town of Newington owner Municipal parking lot request for Special Exception Section 3.2.8 charitable and civic event Kiwanis Flea Markets, B-TC Zone District.

Chairman Hall: The applicant is here, would you please state your name and address?

Al Cohen, 42 Jeffrey Lane: I'm here on behalf of the Kiwanis Club. We have been running a flea market since 1992 and the benefits, the income from it has been used for the good of the town and various civic projects that are not funded by the town itself. We, I believe you have the document in front of you which calls for us to open up the 20th of April for eight weeks and then we are coming back in the fall for another eight weeks, and we are also looking for permission to put up a sign on Esther Eddy's property on Cedar Street, which she has agreed to sign the necessary papers and we have been having this flea market since 1992, we've been good boys and have caused no disturbance and so forth, and we are hoping that perhaps we could, if you would indeed approve it, that we could have it for more than a year, hopefully for three years to save you people from having to listen to this speech every year. I will leave that decision in your hands. Are there any questions?

Chairman Hall: Mr. Meehan?

Ed Meehan: I don't have any questions but I would put into the record that a request for a sign, a freestanding sign on Esther Eddy's property was approved in the past. Actually, the first time that the Kiwanis did it was last year, and the sign worked out pretty well. They also do temporary signage to try to get people into the municipal parking lot, so they do put signs out to help the motorists find that area, and the companion application to this, the process is already started internally. There is a town ordinance that requires an event application to be signed off by the different departments and that is already in route through zoning and building and the police department. The Kiwanis has in the past, as required by that ordinance provided the town with the necessary insurance. So it has been a good partnership.

Chairman Hall: Any questions from the Commissioners?

Commissioner Fox: Is there a way that we can make this, you know, I was just reading the suggested draft motion, for multiple years.

Ed Meehan: You can put time limits on your special exceptions, you normally don't go out, you limit them to a certain period of time, but the section of the regulations which pertains to special exceptions, Section 5.2 does enable the Commission to set time limits on this type of use. Any special exception you can put a time limit on.

Commissioner Fox: Yeah, but usually that limits it to, that limits it, it doesn't extend it.

Ed Meehan: That has been the practice. I don't recall if you have done time limits on any, on commercial uses you have, day care facilities have been limited by time, obviously some earth removal operations, I don't recall an event like this, if it has ever had limits on it.

Commissioner Pane: Madam Chairman, I agree with Commissioner Fox. I think we should extend this for a period of three years as requested, and also if a second sign is needed, I think we should give them the freedom of putting up a second sign somewhere. After all, this is a very good thing that they are doing for the Town of Newington. It helps a lot of people. Thank you, Madam Chairman.

Chairman Hall: Thank you. Any other comments, questions from the Commissioners? At this time is there anyone to speak in favor of the petition? Is there anyone wishing to speak against the petition? Is there anyone wishing to speak? Seeing none, thank you for your time.

**B. PETITION 07-08 Faye H. Karanian, 179 Meadow Street, Newington, CT 06111
applicant request for Zone Regulation Amendment "to restore Section 6.7"
formerly Interior Lots and Single Family Homes, deleted effective August 15,
2008.**

Chairman Hall: Is the petitioner available? Please come to the podium, state your name and address.

Attorney Karanian: Attorney Charles Karanian, representing Faye Karanian, my address is 66 Franklin Square, New Britain, Connecticut. Can I get this put up on the board so that I might address it?

Chairman Hall: This will be for the zone change only, the petition that was just read. What you put up on the board is for the site plan, we will not be referring to that.

Attorney Karanian: Well, I just wanted to refer only to certain reasons for that. Yes, the application is a request for restoring Section 6.7 formerly interior lots and single family homes deleted effective August 15, 2007.

Faye Karanian owns that parcel of land that is shown up there. It starts from Meadow Street and Orchard Avenue all the way down to Spur Lane. She is affected by the deletion of the interior lot section of the zoning. Now she is asking for this for the simple reason she is applying for a permit, or approval of the plan for the lot which meets all the requirements except for one thing and that is the footage for frontage on Spur Lane which requires an eighty foot front, now they consider that an interior lot and that is the reason I am here asking for restoration of that section, because in order to have a hearing on that, I need to have that restored. Now otherwise she is left out in the cold where she can't do anything with that property, she has frontage on Spur Lane and she would need that 6.7 regulation in there in order to properly go forward with the use of the property there.

Now many people in the Town of Newington, by having that regulation dropped are affected by that because there are many people in the same position. Now she has owned the piece of property there for thirty years, some thirty years and has used that entrance there on Spur Lane, indications that it has been used, not regularly every day, but, so there is access to that parcel that we are talking about. Certainly in a situation like this, this technically, according to your regulations it's an interior lot but it's got frontage on Spur Lane, which normally interior lots are using one street front, not two. The top portion of that map shows one lot is an acre lot, and it has entrance on Meadow Street, the bottom one would be the entrance on Spur Lane. This in effect, if this regulation wasn't restored, the town in a back handed way is condemning the property not allowing her to use it so it is sort of reverse condemnation. It's affecting this particular person, she's a widow, raised six children that grew up on that piece of property and she no longer needs the property as it is.

Chairman Hall: Excuse me, can you explain why you want the regulation restored, regardless of how it affects, that is what we need to hear this evening. We need to hear why this body would like to put the regulation back into the zoning. It's very specific to this. What we need to hear is a general explanation as to why the town should restore this section.

Attorney Karanian: There are no provisions in the present regulations dealing with so-called interior lots.

Chairman Hall: Correct, so we need to hear from you why you think it should be restored, without being specific.

Attorney Karanian: Well, it should be restored so that people who have so-called interior lots available to them, and have frontage on the street can come in and get permission to utilize the property properly. Without it, we have no recourse except court and that is why we are here, to go along with the regulations. If it's not in the regulations regarding interior lots, who do we approach? You need to restore it so that we can have it, and the people, this is affecting a lot of people that I have spoken to in Newington regarding interior lots. This is not where, mostly they speak of interior lots as compact, having one entrance into a piece of land, having two houses on one lot actually, this is specifically for another lot. It's a two acre piece and it is being cut up, and in order to be able to do that, the regulations regarding interior lots, are not any where in your regulations, it has to fit in someplace or we would be not able to do it. Advise the people in the Town of Newington how you could get that taken care of when its not part of the regulations. What you did is you eliminated people from coming in with interior lots, or so called interior lots, that's the purpose of getting it restored, so that they can make a property application to go forward with the separation. It's actually like I said, reverse condemnation by the town, by taking it out and not allowing them to do that. It's taking of the property.

Chairman Hall: Mr. Meehan?

Ed Meehan: Thank you. I have a staff report on the table and I did talk with Attorney Karanian earlier today, I'll provide a copy of this to him. This is a policy decision by the Commission whether you want to restore Section 6.7 back into the regulations which was amended back on July 25th. The deletion of the interior lot Section 6.7 became effective August 15, 2007. As a policy decision, the Commission really is required to look at a much broader brush of this, as to whether you feel, from a land use point of view interior lots are appropriate in Newington and how many properties might be subject to rear lots, in what districts they are located, what are you getting into by putting this back into the regulations. Normally an applicant would come forth and have reasons of more of a generic nature that the Commission could consider and discuss, rather than a specific, some of the specific things that Attorney Karanian has mentioned. There is also the requirement in the statutes that there be some relationship to the Plan of Conservation and Development when you make a zone change as to if there is a policy in the Plan of Development, guide lines for land use which, changing your zoning regulations would help implement and further, so you are going to need to state reasons on the record, for or against this, when it comes up for a vote, and that is really the first hurdle here, the reasons that the Commission needs to consider, not just for this parcel, but for other parcels throughout Newington. As far as being confiscatory, I don't know that is true, I mean, any time that you apply the police power through zoning to any piece of property, you are regulating its size and its frontage, height and density. I suppose you could say you know, that is confiscatory in itself, but this has always been treated as a special exception in your regulations. From what I recall it's been in the regulations probably for the last twenty, twenty-five years. It was amended when I first started working with the town in the early nineties. The Commission at that time had concerns about interior lots and they tightened up the standards to require larger areas, one and a half times the zone district they were located in because there were a lot of complaints that these houses were occurring behind other houses and they were, the neighbors were crowded out of their normal surroundings. Also the Commission at that time changed the access from permitting rear lots by easement over the front lot, like a twenty foot easement, to require that the access be in fee to the interior lot, and also increased the side yard requirements and inserted the requirement that this be referred to the Fire Marshal and the Fire Department. That was not something that we were touching base with back then, and that has been a concern of fire and safety personnel, getting into some of these long deep driveways. When this was taken out of the regulations there is a comment in your public hearing record from Fire Marshal Chris Schroeder supporting the idea of removing interior lots, so I give that to you as background. The attorney says this is the only way to handle this, and you know, that is something, maybe there is a variance status here, maybe there is something that rises to the point that the uniqueness of some of the things that he pointed out as far as the frontage on Meadow and the frontage on Spur and historical pattern on the neighborhood make this unique configuration because it already does have access on a public street, although it doesn't have eighty feet, the variance route is more appropriate. That's up to the applicant to decide. At this point, you need to hear from the applicant for his reasons, if he's feels that he has covered those, fine or from the public now to whether they think it is good or bad.

Chairman Hall: Questions from the Commissioners?

Commissioner Ganley: Again, just an observation, I recall a similar argument about confiscating in a left handed fashion pieces of property as related to a situation on Main Street where the CVS is now located. The property owner had a couple of three story frame buildings, the Silver Tray was in the first floor, and he wanted to remove those buildings and he wanted to put up a taller, much taller building and this regulatory body thereupon limited the height of the buildings, obviously I'm paraphrasing somewhat, limit the height of the buildings, and the argument was raised at that time that the petitioner could not get maximum use for the value of the property,

because he couldn't put the building up as high as he wanted to because they had limited the height of the building, and he lost the argument and by the way, the CVS is now located on that lot. Were you on the Commission at that time? That's my recollection of something rather similar, it was a good many years back that I recall an argument, that same argument being raised at that time, you are limiting the height of the building, and I'm not able to maximize my profit, but didn't get the building that he wanted to put up at the height that he wanted. I see something rather similar here. The other thing I notice is, well, I'll wait until we get to the site plan. Thank you.

Chairman Hall: Any other questions? Anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak in opposition to this petition? Come forward, state your name and address.

Bill Pellarella, 29 Spur Lane: I'm here to voice my opposition to restoring the interior lots in Newington. A few months back, I believe in the spring, and into the summer this was debated by the Commission. There were a lot of people who were interested in this, but by restoring the interior lots again, if you think of the problems that they create, that is the reason that the Commission in August decided to revoke that and to eliminate them in Newington. They are unsightly, they do crowd, the interior lots end up in people's back yards, I'm not at this point speaking to that map that is up on the board....

Chairman Hall: No, please don't just to the regulation.

Bill Pellarella: That's right, this is strictly on the regulation and my feelings that interior lots create more havoc and that's why in August the Commission decided to revoke them in Newington, and I think they did a great service to the town. The Fire Marshal and the Deputy Fire Chief and others spoke, saying the same reasons, they are safety hazards, the interior lots, and again, I just wanted to voice my total opposition to restoring them. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in opposition to the petition? Anyone wishing to speak. Seeing none.

Attorney Karanian: I'd just like to say in response to some of those statements made by him, that at least if you have a hearing and applications the person has an opportunity to present his situation whether it's an interior lot, or shouldn't be, but to say that you don't have regulations to regulate that so that each case can be decided on it's own merit, you are eliminating the possibility of a person having a (inaudible.) So if things are presented on each particular, I mean, there might be things that shouldn't be, overcrowding, there are a lot of reasons, but at least if it conforms to the regulations except for one thing, then maybe there are exceptions or variances to it. But if you don't have the opportunity to do that, say no interior lots, and you have no forum on which to argue it, or discuss it, and then there is no action, automatically you are saying no to everything because you have no forum.

Chairman Hall: Okay, thank you.

C. PETITION 08-08 Faye H. Karanian, owner and applicant, 179 Meadow Street, Newington, CT 06111 request for interior lot at 179 Meadow Street Section 6.7 (proposed) R-12 Zone District.

Chairman Hall: Are you going to speak on that on too? That's the Petition 08-08, request for interior lot.

Attorney Karanian: Well, if you have no regulations on interior lots, how do speak on this unless this is a forum for so called exception because that lot meets the requirements of all the zoning regulations except for the frontage, which is eighty feet in that zone. It's fifty-one feet. Now, that's the only, the applicant owns right down to Spur Lane, it comes down, right along that line here right to Spur Lane, up here, over here and up again. Now the map, as shown here would give all those things that we were speaking of, whether it be fire safety regulations, sanitary sewers, water, it only doesn't meet the requirements of an eighty foot frontage. It would require eighty feet in that zone. It meets the zone requirements except for frontage, and of course that is what we are here for regarding, so it's technically an interior lot and yet it's not an interior lot, it has frontage on the street, it's not putting one house behind the other in the sense of having one access and having consideration for fire safety and other regulations, police and everything else. It would meet the requirements of thirty-five feet, thirty feet and access to the property. Someone would put a one family house, so there wouldn't be excessive use on it, it's 5500, .599 acres, which is over half a acre which many properties meet the zoning regulations in that respect, is what I'm saying, so we are just asking, that's why we got into the interior lot situation, and yet we have frontage on Spur Lane.

Chairman Hall: Mr. Meehan?

Ed Meehan: The standards which the applicant and the companion petition 07-08 asked the Commission to rule on, I have made copies attached to the memo on the table and the, as a special exception, there are standards and conditions that are typical of any type of special exception. There is the general special exception conditions, Section 5.2, the need, the character of the area, service of utilities, traffic safety and so forth, and then for each particular special exception there's individual criteria, which the Commission looks to. In this case the guidelines that the Commission should look to for the interior lot, I'll just paraphrase them, I don't know if the applicant is prepared to do this, but maybe to get the conversation going, first it has to be for a single family home; it has to be constructed on a lot that has at least a twenty foot access way to a public street, an unobstructed access way; a minimum of ten foot driveway pavement, five feet of separation on either side for snow shelf and drainage; the lot does not have any other access which would permit it to meet the minimum standards; meaning that there is only one way in and out of the property; the applicant should present to the Commission any unusual characters related to topography, the historic pattern of land development in the neighborhood, or other practical difficulty in developing the property such as effective frontage and access; and the placement of the proposed house on the new interior lot has to meet the set back standards of Section 4, and that is 35 foot front yard, 30 foot backyard, and at least ten foot side yards. The Commission may ask for and always asks for a site plan to illustrate the physical location of the lot boundaries and the location of the house. So those are some of the things that you need to take into account when you observe the layout that has been put on the board you have in front of you. I believe the access, I haven't got the map in front of me, as I recall from looking at it this afternoon, on Spur Lane would be about forty-eight feet, I think that there is a proposal by Mrs. Karanian to sell a slice of land, a sliver, I think maybe it's five feet or so to an abutting property owner leaving about forty-eight remaining, directly onto Spur Lane. The other unusual characteristics of this subdivision, not just this lot, but the subdivision as a whole, is a common area easement with fifteen feet, you'll see on this property, we can get into this more if you would like, related to the requirement for a bridle path system in lieu of sidewalks in this location. This fifteen foot easement runs north and south from Spur Lane north to Meadow, and east and west, abuts the Spur Lane public right of way and then east and west at the south end of the Karanian property. When she acquired the fifteen feet of property from Flagler Associates, the developers of the subdivision, and added that fifteen feet to her property at 179 Meadow Street, along with that fifteen feet in fee came the easement encumbrance. That is something that the Commission should know about. Those are the general characteristics. I really don't want to go back to the prior record because this is a different petition, it wouldn't be fair to the applicant I think to go back

and refer to the prior record, he needs to make a record tonight on this particular petition and in fact, this map is different than what the Commission saw last time anyways, so you should really look at this map, so those are the characteristics that you need to consider and Attorney Karanian said, if you haven't got standards you can't vote on this, that's true, but they did ask you to look at Section 6.7 and you do have that in writing here, so that's what you need to look at.

Attorney Karanian: In response to this I just want to show something on the map so that you will understand it. The bridle path, as it is called runs along north and south along here, it's delineated and it would be fifteen feet from here to here and that would not be used, any portion of that would not be used for access, in other words, after the fifteen feet is taken away you still have over thirty feet which you need twenty feet plus five on each side, so, and this was a bridle path and bridle paths mean horses, so, in any event, Faye Karanian owns that in fee simple, she owns right down to the street, and she owns over to here also, between this, and this portion here was going to be conveyed to another party which is formerly owned by Botticello, which she owns, down to here, but that was part of the, it's not included in the lot itself, so that's an extra piece, but in other words, as far as this, it's a bridle path and of course that's not going to be blocked up, the entrance way would be away from that.

Chairman Hall: Thank you. Questions from the Commissioners?

Commissioner Ganley: The measurement of 53.90 feet is on the diagonal line just as it was the last time that we went over this site plan, when in fact the actual width from the I-rod set directly across, north, south, is really only 42 feet, and that's by using their scale that is here, so, plus there is the same issue with rights of way, and there is a piece of asphalt, which my recollection when I made the field trip was there were two parking spaces on that asphalt, that issue was never settled before this Commission, and we were always in dispute of the figures and/or what we considered the entrance off of Spur Lane. Those issues seem to be essentially the same as it relates to this, in addition, the building lot, lot B does in fact does extend over into the public right of way by approximately six feet, maybe eight feet, and it's called part of lot B. So, this doesn't add anything to what we probably already have discussed or gone over as it relates to various rights of way and approaches off of Spur Lane. I don't, unless there is something that I have forgotten, and if I did, please correct me, I don't see anything new being added to what this site plan should or should not look like.

Attorney Karanian: May I respond to that? Or at least ask a question? Where is he referring to the five feet? The bridle path is fifteen feet, and that is not being figured in on how many feet that you would need for access such as thirty feet. Is that what the question was, or the statement?

Commissioner Ganley: Well, Lot B extends six feet into the right of way. Bring your finger up a little farther.

Attorney Karanian: What's the question?

Commissioner Kornichuk: You are into the bridle path.

Attorney Karanian: Here's the bridle path over here.

Commissioner Ganley: Yeah, and you've got your Lot B.....

Attorney Karanian: Those are vines, grape vines that are delineated there.

Commissioner Ganley: Your lot B extends into, Madam Chairman, may I respond?

Chairman Hall: You may.

Commissioner Ganley: Thank you. Your Lot B extends, appears to be six, maybe seven feet into the right of way by this engineering map, which I have and I suspect it's the same as there.

Attorney Karanian: No, she owns the fee, she owns that property. When you say it's into it, I don't understand what you mean.

Chairman Hall: I think you mean the building don't you, Commissioner Ganley?

Commissioner Ganley: No, it says Lot B and it's got parameters of Lot B....

Chairman Hall: Right, but I believe that is the building line. That's....

Commissioner Ganley: I call it Lot B.

Chairman Hall: Well, Lot B is the whole section and then the building line would be, it's not a solid line.

Ed Meehan: Well, other situations here, the fifteen foot bridle path is a separate parallel line, it's a free standing separate parallel line. In the case of this particular lot the proposed interior lot, we'll call it Lot B, has merged the fifteen feet with the proposed interior lot.

Attorney Karanian: In fee simple, it's owned by her, so it was included in it. Now that is subject to the bridle path but it's there.

Ed Meehan: To be properly shown it should be some sort of a screening or a dashed line or something that shows, subject to the easement.

Attorney Karanian: Well there are grape vines right down the whole line there.

Ed Meehan: Well, the grape vines could be taken away, but the record easement should reflect on the land surveyor's map is what I'm saying.

Attorney Karanian: Well it does, it shows it right down here, but it doesn't delineate it where it is, but I was stating, it was fifteen feet there, and it's bridle path.

Chairman Hall: Any other comments, questions on this?

Commissioner Fox: Thank you Madam Chairman. I just has a couple of simple questions. Number one, does this lot have the required frontage on an accepted street?

Chairman Hall: At this time, no.

Commissioner Fox: And, actually that's it, that's the only question that I have now.

Chairman Hall: Any others? Now, with regard to that bridle path, wasn't that a permanent easement for the development?

Ed Meehan: That's correct. When this property was subdivided in 1974 the record subdivision map shows a network of fifteen foot bridle paths that meander around the perimeter of this subdivision as well as through certain sections of it. All of the residents, as they acquired their lots had a common interest in those bridle paths. When it was acquired by Mrs. Karanian in

March of 2004, she bought the fifteen foot easement area from Flagler Associates and merged it into her lot, into 179 Meadow Street. But that merger doesn't eliminate the fifteen foot easement. The land surveyor should show I believe on the map before you, in some fashion by cross hatching it, or dashing it, that there is a fifteen foot easement of record along the perimeter of Mrs. Karanian's lot. But he decided that he is going to stop it there. It should be all the way around....

Attorney Karanian: It starts here and goes up here.

Ed Meehan: But we can't tell that, from that map. Having said that, and showing it, the question is, and you may want to refer this to your town attorney, does this easement or the so called bridle path exclude the crossing of the easement by a driveway? If it's not mutually exclusive, then I think you could put a driveway over it, but if it is, then you can't have a driveway over it, you may want to hear from legal council on that.

Attorney Karanian: There is nothing in the bridle path easement that restricts it, per se. It was originally a bridle path, which is for horses. Even sidewalks, which are easements to the town traffic moves over sidewalks. When you own a fee simple of a piece of property, in other words you own the land itself, and it is subject to something, but doesn't stop you from that which is not restricted by the easement. There is nothing in the easement that says no driveway over it or coming in over it.

Chairman Hall: Thank you. Any other comments or questions from the Commissioners? At this time, is there, I'm sorry, Commissioner Pane?

Commissioner Pane: Madam Chairman, this interior lots was in our regulations for quite a few years and I don't recall it being too controversial in the past, and I was wondering, when this was taken out on 8-15-07, if I could get the minutes for that so I could review the minutes to find out why they took this out. I would like to hear what the Commission at that time, of 8-15-07 some of their reasons for taking it out. Please?

Ed Meehan: I'll note that.

Chairman Hall: Any others? At this time, is there anyone who would wish to speak in favor of the petition? Come forward, state you name and address. Is there anyone who wishes to speak in opposition to this petition?

Bill Pellarella, 29 Spur Lane: I'd like to ask a technical question, through the Chair to the Town Planner before I get into my reasons on opposing the proposal. This proposal, the identical proposal was in front of the Commission in August, well prior to August, but it was voted on and rejected, denied, in August. Was there an appeal to that denial?

Ed Meehan: No.

Bill Pellarella: Is there a policy or a by-law of the Commission that there is a twelve month moratorium before re-applying?

Ed Meehan: The Connecticut General Statutes and the Zoning Regulations give the Commission latitude not to entertain a petition for an application that involves a zone amendment such as changing the map or changing the regulations for up to one year, but as far as site plans and special exceptions, that's not something that a local Commission can do. I believe it is Section 8-C of the Connecticut General Statutes where if the Commission feels that there has been no

material change in the petition for a zone amendment or a zone map change, they don't have to entertain the application.

Bill Pellarella: So I guess I'm asking the Chair to rule on that because to my knowledge, and based on what I have seen and heard, there is no change from the application that was denied in August and the application that is being brought forward tonight, so would the twelve month period be in place?

Chairman Hall: Well, I think we would have to decide whether there was a material change or not. I think that is something that we as a Commission would have to decide and then.....

Bill Pellarella: I'm basing that on one of the Commissioners, we haven't been privy to see the map that is up here, but going based on what one of the Commissioners said, it's an identical application that was in front of the Commission just a few short months ago.

Chairman Hall: Right, but you have to understand that this Commission has changed.

Bill Pellarella: I understand that.

Chairman Hall: So it would really be necessary for us to discuss that as a body before we made that decision.

Ed Meehan: That decision would only pertain to the prior petition, to amend the zoning regulations, it doesn't pertain to this issue before you right now, which is for a special exception to configure an interior lot. Don't get them mixed up, one is a policy decision, the other is an administrative decision.

Bill Pellarella: Right, getting down to the proposal, myself and others from the neighborhood were here months back in front of the Commission voicing our reasons why we didn't think this was a good idea, and the reason, our main objection is that those bridle paths that we are speaking of that run north and south and east and west, those bridle paths are used daily. There are no sidewalks through Spur Lane. When that development was approved, that subdivision, it was in lieu of sidewalks for the bridle paths so that the children could get from that area to the bus stops. That is what they use the bridle paths for, the kids, and then the adults use them also, but without that access, the kids are going to have to walk in the road. There's no sidewalks there, and that was one of our biggest objections in front of the Commission months back. The map that he showed, the right of way, he said there is no restrictions, but I believe that part of the record was, and I believe Mr. Meehan brought it forward that there are vehicle restrictions that are on the bridle path, that no motorized vehicles can cross them or drive on them. That is part of the bridle path agreement and when we bought our houses in that area, our deeds all state that we have access to these right of ways that go through there, and again, when the map was presented before they showed the north and south, but they seem to have forgotten the one that runs east and west right through the heart of the property also, so I just wanted the Commission to be very well aware of the fact that these bridle paths mean a lot to us in the neighborhood, and again the kids use them daily to get from Spur Lane and other areas there to the bus stops, and usually go through there, and we object to any use for those bridle paths to be taken as part of the request that is going to be for the house that is going to be built in there, for driveway or for whatever else. If you put the house where the bridle paths are, I think you are going to see that you are walking almost through the house, or through the driveways of people that are going to try to build a house inside that area. So again, I just want to voice my total opposition to that and the fact is that they don't have the frontage on Spur Lane with the issue with the bridle path, with the fifteen feet because again, there is a court case pending, I'm not quite sure where it is dealing

with that, but either way, if she tried to use the fifteen feet, they are still short in the front for the necessary frontage for the driveway.

Chairman Hall: Thank you very much. Anyone else wishing to speak in opposition, and try to keep it to our three minute please. Please state your name and address, and again, try to keep it to the three minute limit.

David Pell, 18 Spur Lane: That's right here. I've lived there since December of 1978, and I've never seen any vehicle access that lot through Spur Lane. I would refer the Commission to the staff report which was prepared on last year's identical petition which was 21-07. That refers to the TPZ meeting of June 12, 1974 and as the previous speaker stated, the right of ways were created in lieu of sidewalks, with the specific stipulation that there be no vehicular traffic on those rights of way. Attorney Karanian stated that there was only one way in and out, I don't think that is completely accurate. If one were to use a shared driveway up to Meadow Street and Orchard Avenue, there is an existing driveway here, if another lot were allowed, they could use that same driveway to access the lower lot, so I don't think that they absolutely need to use Spur Lane and that is important because the standard now to the extent that the petitioner has come in and requested a variance is that they need to show the Commission that there would be an unusual hardship, and I don't think they have come close to meeting that burden. Also, I just wish to echo what Commissioner Ganley stated, that a person's right to use a property, they do not have an absolute right to put it to the greatest economic use. You don't have a right to put up Trump Tower where ever you please. The property is now being used for one home, with an additional lot and that is a proper and good use of the property and I don't believe that there is any basis for granting the petition.

Chairman Hall: Thank you. Anyone else wishing to speak in opposition to this petition? Seeing none, is there anyone wishing to speak?

Faye Karanian, 179 Meadow Street: This is my petition. I would just like to make a few comments about the bridle path. The bridle path that runs north and south is used continuously, as well as my yard. The one that runs east and west is never used. It runs only to the house at 28 Spur Lane. It's my understanding that the bridle path runs all around the outside of the back of the development and it's never been enforced, never. There has been a car parked on the east to west bridle path for twenty-five years, that's never been enforced. I can't imagine that children would run any more danger by having allowed a driveway across that east to west bridle path. Thank you.

Chairman Hall: Thank you.

Attorney Karanian: If I may respond to the last,

Chairman Hall: Was there somebody else, I'm sorry.

Gabino Cartera, 28 Spur Lane: I'm the abutting property owner on the other side of Mr. and Mrs. Pell. I'm somewhat limited in what I can speak to, there is ongoing litigation over a portion of the property which the Karanians are claiming they can use to access Spur Lane. We had reached an agreement to settle the dispute, and as a result of the agreement, the Karanians would be left with thirty-two feet, approximately thirty-two to thirty-three total feet to access Spur Lane. Recently they have informed us that they do not wish to adhere to the agreement, even though Attorney Karanian has signed the agreement and our next step will be to seek judicial intervention to enforce that agreement, so it's a little bit up in the air right now as to what they actually own, so I just wanted to make the Commission aware of that fact.

Attorney Karanian: I just want to respond to the first speaker's comments. First of all, there is nothing in the records saying that the bridle path is a walk way for children or access, just that it is a bridle path. The bridle path was put in there originally I guess they were going to have horses, but anyway, but they are using it and there is no question the bridle path, even owned by Faye Karanian would still be usable, it's not going to be closed, there is no attempt to close it, or anything else. Now you were talking about cars over there, he parks two cars over there on the so called bridle path, so certainly parking cars on the bridle path over here and its supposed to be a pathway, as I say, I haven't heard either of the speakers speak about, he said he never saw any cars there, I just wanted to mention that, that he is parking in the so-called bridle path, and that is what his concern was, but in any event, there is nothing in the records back when the development was made, saying that this bridle path was for use for children and access for vehicles crossing one way or the other, this is all assumed. That's fine, if they use it, no problem, however, if they are talking about vehicles, naturally you don't want one of those four wheelers riding along the bridle path, I agree, certainly, we would be upset with that too, but certainly just like you would if there were vehicles on the sidewalk, using access is not using the bridle path for vehicle traffic. It's simply going over it, and the part here that would still be open would not be restricted for a safe pathway because there is thirty feet, not counting, at least thirty feet not counting the bridle path, running east and west so you have proper access and leaving it, and also for fire trucks or police cars or anything else. Nobody intends to build the maximum use there, it's a one family dwelling, and I mean the zone is for one family houses, not two family houses that are built around us. Thank you.

Chairman Hall: Thank you.

Commissioner Kornichuk: I just need a clarification, the first person who got up here and spoke in opposition to this, did he said that there was a bridle path that ran through the center of this property, I thought that is what I heard him say.

Chairman Hall: I don't know, maybe he was referring.....

Attorney Karanian: I can point it out, the bridle runs like this where I have my finger.

Commissioner Kornichuk: Yeah, that's the north and south.

Attorney Karanian: Then it runs across this way.

Chairman Hall: Then there is another one in the center.

Attorney Karanian: No, there's nothing in the center.

Chairman Hall: I believe that there is.

Ed Meehan: It's not on that property.

Chairman Hall: It's not on the property, but there is a bridle path that intersects and that was Peter's question, as to where.....

Commissioner Kornichuk: I thought that the gentleman said that it went straight across the center of her property, that's why I'm questioning, that's what I thought I heard.

Commissioner Pane: Madam Chairman, that's what he stated, but it looks like, it appears like it runs off their property, to the left.

Chairman Hall: Anyone else? That one comes up to it, then stops and intersects with that one.

Commissioner Kornichuk: I can see that on the map, but what I heard.....

Commissioner Fox: Begins west of the property.

Chairman Hall: We do have ability for rebuttal if we do have anyone who wishes to speak. Those of you who spoke in opposition, if you have any last words at this point...state your name and address please?

Alisha Moskertalo, 31 Spur Lane: I would just like to voice my opposition to using the bridle path as a driveway. They mentioned the cars that are parked there, but in my opinion, they are stationary, and they are just parked. If you are using it as a driveway, where cars are coming up and down it, I personally have two children that use that bridle path as a way to get to the bus stop because the buses don't come down the cul de sac, and he mentioned horses, stating way back, but I believe when it was read what the bridle path was used for, it was because there are no sidewalks, it was for foot traffic as well, not just for the use of horses.

Chairman Hall: Anyone else at this time. I think we can end this for this evening.

Ed Meehan: Close it?

Chairman Hall: It's up to the Commission. I don't know if you want to keep this open to see if there is anything else that comes in the next time, or if we have heard enough to.....

Commissioner Ganley: If you get consensus, that might be helpful.

Commissioner Pane: I don't have a problem with closing it, Madam Chairman.

Commissioner Fox: I just as soon see it closed.

Commissioner Pruett: Close

Commissioner Correll: Close

Commissioner Kornichuk: Okay, close.

Chairman Hall: Then I think we will close this petition.

D. PETITION 09-08 – Spin Cycle, LLC, 190 Fenn Road, applicant, Umberto Manacchio, owner, represented by Attorney Vincent F. Sabatini, One Market Square, Newington, CT 06111 request for Special Permit Section 6.6 Liquor Permit, I (Industrial) Zone District.

Attorney Sabatini: Good evening Madam Chairperson and Members of the Commission, my name is Vincent Sabatini, Attorney, One Market Square, Newington, Connecticut and I'm here tonight representing Spin Cycle. As part of the application I did submit documents one through nine, and I think each of the Commission members should have a package, is that part of the record, Ed?

Ed Meehan: Yes. Commission members on this side of the table do not have copies because there was not a sufficient number submitted.

Attorney Sabatini: I submitted seven.

Ed Meehan: Seven and so we have seven out, so if we could share those we have a complete record.

Attorney Sabatini: Okay, thank you. I understand that some of the Commission members have heard the presentation before in prior hearings. I'm hoping that you will keep an open mind, I don't want to repeat myself on this, but we are here tonight to ask for a special exception to serve, for a restaurant liquor permit. This particular site was approved for a restaurant by a Certificate of Action of the Planning and Zoning Commission in January 18, 2005. At that time the Commission recognized that this was a mixed use operation with a Laundromat on one side and there would be a restaurant on the other part of the property. The restaurant because of parking limitations was limited to six hundred square feet and at that time it was determined by the Commission that because of the limited size of the restaurant there would be no more than fifteen seats available within the restaurant area, and that is exactly what you will find today. First is the floor plan indicated in this exhibit which is number three in your packet. The floor plan indicates where the bar area is, and six hundred square feet for the restaurant, and the Laundromat is on the other side. This is best illustrated by these photographs which you also have. This wall, which is this red wall, separates the Laundromat area from the restaurant area, so this is looking back toward the Laundromat area. The restaurant area is shown by these two photographs at the bottom, one indicating the seating for the restaurant, the other one looking at the bar area which is already in place. We also have a photograph of the façade of the building. So nothing is changing internally, we are not asking for any more seats, we're not asking to do anything else here, we're simply asking that the Commission entertain a liquor permit with the restaurant use. We have also indicated as part of the package the menu that they presently have available, and you can see that it is, is not a full menu but is a menu that offers food and morning, lunch and in the evening.

The regulation that we have to meet is 6.6 which talks about what is required for the Commission to approve the sale of alcoholic beverages. We need a special permit and the special permit is subject to the Commission following the following conditions; under 6.6.3, condition A, you can't be within 500 feet of a lot used for a college, school, church or hospital and none of those uses are around this site. Subsection B, we are in an industrial zone, so we have to be 1500 feet away from any use that is similar to the one that we are contemplating, and we meet that requirement. Our permit is going to be a restaurant and the like, that is under Section C. Now the rest of the subsections, D, E, and F, don't apply because again, we're not within the thousand feet or 500 feet, we're not selling alcoholic beverages in a residential zone, and it's not prohibited. So the only requirement that the Commission can legally consider is the distance, and we meet those requirements. With regard to the approval, the maintenance of public order, safety, protection of the property, I submit to you that when this use was approved as a restaurant all of those particular things were taken into account, so the restaurant, the alcoholic beverage in and of itself does not add any additional requirements to the restaurant use. The parking requirement does not change. None of the other requirements under the general special exception standards of Section 5.2 really change, because they were already looked at and approved. The need, you decided that there was a need for a restaurant, having a restaurant serving liquor is not an unusual thing, because it is a restaurant, it's not a bar. The character of the neighborhood, it supports this type of use, it's a business use. The type, size and location of main and accessory buildings doesn't apply to this particular use, application. Traffic circulation, again, that is not going to change because that has already been decided when the restaurant use was set. Under subsection E, there is water, sewer and those are already set, there is nothing to decide there. There is nothing to decide in F, in regards to signs, lighting, landscaping, that's all set and with regard to any safeguards to protect adjacent property that has already been in its place when the general site, the building itself was approved, so we meet all of the requirements and all of the criteria of the, of this use and I think that again, I just want to talk a little bit about this operation.

They have been there nine months, and eighty to ninety percent of the people who go in there are adults. If any adult is bringing a child it is usually in the morning. I don't see how that would be an issue anyway, because again, any restaurant, people come in with families, they sit down, they have food, and they have, alcohol is served, so that shouldn't interfere with the operation of the Laundromat in any way. It is a unique business, an unusual business, but I think that it works well, and as some of the testimonials attest to that I have attached to the document, they've been given great reviews by people who have been there and have seen the place, and I don't know of any Commission members that have been there, but I certainly welcome anyone to go there and take a look at it, but in terms of the requirements of the regulations, those are met. In terms of the parking, the parking is set, there is nothing in the regulations that say that if you are going to add alcohol to a restaurant you have to have additional parking. I think that is everything that I have to say about this, if you have any particular questions, I'd certainly be happy to answer.

Chairman Hall: Mr. Meehan?

Ed Meehan: Thank you. I think Attorney Sabatini has accurately stated the requirements of Section 6.6 as far as the separation standards in industrial zones for a liquor permit, but I would also call the Commission's attention to Section 6.6.2 which does refer you back to Section 5.2 and it says when the Commission is looking at considering a special permit for alcohol uses it should also consult with Section 5.2 and 5.3. 5.2 is the general special exception, special permit standards, and 5.3 is the site plan standards. I think this is, this being an additional special permit at this location the Commission should look again at subsection D, that asks the Commission and the applicant to consider traffic circulation, the amount of parking, access to parking, traffic load and those items under Section D, which all go back to the issue of adequate parking and safety. As the Commission members know, I'll put this back before you, this parking is in the town right of way. The town granted these people an easement to park in the public right of way for these seventeen spaces. The issue of parking, seventeen spaces for this use really has to be discussed making sure that it is going to be comfortable and adequate for an additional use at this property. When the Commission approved the restaurant it was careful to say, I think the exhibit is right up there on the board, I'll call your attention to it in the exhibits, the petition 54-04 which was approved on January 12, 2005, the Commission noted that this is a small building with minimal parking. The restaurant area shall be limited. Attorney Sabatini has already addressed that. The Commission said in approving the dual use of this building, the Commission is permitting occupancy based on the applicant's presentation that the nature of the Laundromat and business and the restaurant can exist sharing limited parking, so now it's restaurant, Laundromat and liquor will share the parking. I think the issue here is the limited parking, and I don't know if this has gotten back to the property owner yet, I don't know if the tenants have relayed this, but we have to get from the property owner the correct insurance binder naming the town as an additional insured, and the correct hold harmless agreement from Mr. Manocchio, and the tenants should address that.

Attorney Sabatini: Can I respond to that Madam Chairman? First of all, you have a deed of easement and I made that part of the record, number two, the deed of easement was executed in the year 2000, now that is between the Town and the owner of the property, that's before Spin Cycle even showed up. That allows parking in the area that's in question.

Ed Meehan: I don't dispute that, I'm talking about the insurance.....

Attorney Sabatini: If Mr. Manocchio hasn't complied with the terms of the deed of easement in 2000, it's now 2008, I don't think you can put that on Spin Cycle. I don't think it's fair to say Spin Cycle is somehow responsible for that. I think the Town has to enforce that with Mr. Manocchio, but certainly when you read this deed of easement it says that Mr. Manocchio, the property owner, and I'm sure within the lease of Spin Cycle the tenant holds Mr. Manocchio harmless from

any problems, I know that Spin Cycle has insurance, and they insure the landlord. Now whether or not the owner of the property has insurance with the Town, that's the Town's problem I would think, not Spin Cycles. I don't think it would be fair to hold that as a problem for my applicant. I really don't think so. Second point, just because we are adding alcohol, there is nothing in the regulations that say that alcohol in a restaurant adds more parking requirements. The regulations say that if you have a restaurant you have to have so many spaces. As you indicated, in your approval of January of 2005 which said you can have fifteen seats because the parking is limited. That's the only regulation that exists that talks about parking. It's a restaurant use. It doesn't say restaurant use/alcohol therefore you have to double the parking. So I don't see how that point is valid with all due respect. I know that you look at traffic and all that, but you have already approved this, and there is nothing else in the regulation that gives you the authority to say, we need more parking because we are going to have alcohol. You are going to have still fifteen seats. They have fifteen seats, people eating a panini sandwich or fifteen seats and eating a panini sandwich and a glass of wine, it doesn't make any difference in my book.

Commissioner Fox: Through the Chairman, I did stop in there and sat down at the bar, my question is, there were also some tables off to the right of the bar, and a sofa and other seating places. My question, I didn't count the number of seats at the bar, and I probably should have, my question is, does the fifteen seats include the bar, sofa, tables on the side as you can see in that upper right, and over here, because if it doesn't, then you are adding.

Attorney Sabatini: No, no, what you see is what is going to be there. There isn't going to be any changes, we're not going to add more seats, we're limited to fifteen seats, that's what it's going to be. Fifteen seats. And there are some tables there, I think there are like only three or four tables, and there are maybe, one, two, three, four, five bench type chairs at the bar.

Commissioner Fox: Stools.

Attorney Sabatini: Right, stools. So that's it, we're not contemplating anything else because we are limited. Now there may be some other places to sit, I think in the Laundromat area, but that doesn't affect the fifteen seats for the restaurant. I submit to you that the addition of alcohol, the restaurant license, the restaurant serving alcohol under these circumstances is limited to fifteen seats. That means whatever parking is allocated already to the restaurant use is going to remain intact, there is not necessity, I mean, I looked through these regulations a lot because I read some of the comments, with all due respect that were said last time, and so I went through the regulations, I said, okay, is there a regulation that says, if I add alcohol to a restaurant I have to have more parking. Well, there isn't. Then I looked at the easement that the Town had already entered into with the owner of the property, and I said, okay, they have already decided that they could use some of the town property for parking and they entered into an agreement. Now, I'm surprised to hear that Mr. Manacchio, who I don't represent, has failed to supply the necessary insurance. I just know that we have insurance because Mr. Manacchio requires Spin Cycle to have insurance and we're holding Mr. Manacchio harmless, so and I guess, I would think, although I'm not going to make an off the record legal opinion, if something happened there, our insurance would pick up the tab for the town, I would think. The town is actually insured through Manacchio through Spin Cycle, but I think you've got to get a hold of Mr. Manacchio. You shouldn't hold that against us.

Commissioner Fox: Thank you. We talked mostly, when we talk about seating, square feet, how many seats you can have, so if we can have a maximum of fifteen seats, I don't know what the building department thinks, but they said they have poetry readings, open mikes, which might attract a number of people, sitting at the bar, standing around, along the walls.....

Attorney Sabatini: I don't know if that is a restaurant use, I mean, if the restaurant closes at eight o'clock, I don't know what is going to happen after that. I don't know what they can do there. Fifteen seats at the bar, I mean at the restaurant, that's what they are required to have. They have more, building might have a problem. I don't know that, but fifteen seats at the bar, at the restaurant equals the parking spaces that they have, so if something else happens there, well then that's a problem, but that could happen to anybody. I mean you could go to any restaurant along the Berlin Turnpike, you have to post a sign, occupancy 200, you've got a football game going on, on Monday night, maybe there is 300 people in there, 400 people in there, I don't know. Is that right, no, but that's a different thing, that's an enforcement thing.

Commissioner Fox: And I don't know if the Fire Marshal has set an occupancy rate at that, for that.

Attorney Sabatini: I don't think it's required because of its size.

Commissioner Fox: I don't know.

Attorney Sabatini: It's a small restaurant, and they are just trying to make it more attractive and get a little more business. They think by adding liquor they can. It's a small place, two hundred square feet, you can't get a lot of people in there, that's for sure.

Commissioner Fox: I just wanted to get these things clear in my mind. Thank you.

Commissioner Pane: Madam Chairman, my opinion is the restaurant and the liquor use is an accessory use to the main business which is the Laundromat and I think everybody is losing the fact of that, and I don't have a problem with this applicant, and I'm surprised that this was approved as a liquor in 2005, I don't recall that coming up.....

Attorney Sabatini: No, not as a liquor, a restaurant.

Commissioner Pane: Was it a restaurant with liquor?

Attorney Sabatini: No, just a restaurant.

Commissioner Pane: Oh, just as a restaurant, okay, I misread that. Sorry, I misunderstood. Thank you Madam Chairman.

Commissioner Ganley: My observation is that it's not a matter of direct link between liquor and parking spaces, instead I think it's a expanded use of the same building. Because you are introducing a new activity, i.e., having liquor in there, then I think that is the linkage between whether you should or should not have more or less parking spaces. The addition of the liquor introduces a new element and I think it would be fair for us to at least look at that to see if the introduction of the liquor, which is another activity, would then give us reason to require more parking.

Attorney Sabatini: May I respond to that Madam Chairman, through you?

Chairman Hall: Yes.

Attorney Sabatini: I understand what you are saying, but you need to have a regulation in the zoning regulations that says if I add liquor to a restaurant use I have to require more parking. There is no such thing. So you can't say automatically that the, if for example it's five spaces per one thousand square feet for a restaurant use, but if I have restaurant/alcohol it's ten spaces per

one thousand square feet, it doesn't say that. I think a regulation like that would be illegal because none of the regulations speak that way. All the places on the Berlin Turnpike that are restaurants, they just talk about restaurants, whether it's Applebee's or Ruby Tuesday's, Outback, all those places, it's just a restaurant use. You have to have the number of spaces per square feet for the parking regulations, so, with all due respect, I don't see how the alcohol adds another dimension to it. Now, I just don't see it because, and if it was a requirement, it would be somehow in that regulation that talks about alcoholic beverages, but all it talks about is the distance. I mean, that's what you have.

Commissioner Pruett: Just a concern that I have, we do have regulations that stipulate concerns for safety under I think it's 5.2, 5.3 and my concern is that it is something new, being added to there, and I think when something new is added, would probably expand, the likelihood of increasing the business therefore, we have a concern with the parking as it is now, I'm afraid that if the barn door is open, it's granted, we have a problem, then it falls back on a safety concern. That's the concern that I have.

Attorney Sabatini: The increase in business is that they may have five people having dinner there, but they want fifteen, I mean, that's what we are talking about, we're not talking about going from fifteen to thirty-five, we can't do it anyway. They are just trying to talk about making a living there. They are trying to add this to a little place and hopefully somebody will have a glass of wine or something like that when they are having a panini sandwich, that's what it is. It can't be any more than what it is, you've got 600 square feet, I don't even know if it is as big as this room. Probably half the size of this room, you're not going to fit a lot of people in it.

Commissioner Pruett: They are applying for a full liquor license or just beer and wine?

Attorney Sabatini: No, it's full liquor license, there's no beer and wine, the liquor license are restaurant and the like, club and the like, store and the like. Those are the three classes.

Commissioner Fox: You had mentioned like when we give somebody like Applebee's or the Outback a certain requirement to have a restaurant and a bar, and this, I'm just playing devil's advocate and throwing it out, in this case, we had no idea there was going to be a bar, so really I don't think the correlation, I don't think it's the same thing. Maybe you can respond?

Attorney Sabatini: Well, I can understand, but again the argument is whether you are looking at a restaurant that serves alcohol or doesn't serve alcohol, the requirement for parking for ingress and egress are the same. I mean, here you have a horseshoe drive way going in and out, you have seventeen parking spaces, you have enough cars to service the restaurant, I mean, that's what you have, it really doesn't matter. I guess if you were looking at this as some kind of a bar, where, like a Hooters type of place, or something like that, or some other type of bar, you know, you are going to say all the things that might be in play, like bars that you see in downtown Hartford, you don't have that. You don't have that any place in Newington. I don't think there is any place left like that. They are all restaurants that happen to have alcohol. I'm trying to think as I'm talking to you, oh, I guess there is one on Cedar Street near Dunkin Donuts, I guess there is a bar there, but you know, that's just a bar. I don't know if they even serve....

Commissioner Fox: Thank you Attorney Sabatini, you make some very good points.

Commissioner Camerota: Thank you. Through the Chairman, what are the current hours of operation?

Attorney Sabatini: For the restaurant part?

Commissioner Camerota: Yes.

Attorney Sabatini: I believe they are open like 11:30 for lunch and they close, well, they've been closing early because there's not much business there.

Commissioner Camerota: Is there an intent to, if you get the liquor license, and business picks up to make the hours longer?

Attorney Sabatini: Well, they will probably close, around here people eat early, leave early, around nine o'clock I would think, not any later than that.

Commissioner Camerota: Okay.

Ed Meehan: Just for clarification, I think Commissioner Fox may have alluded to this, and it came up with the prior application, they had mentioned, the applicants had mentioned comedy nights, open mike events. So you are saying this is just a restaurant use, they are not going to pursue those types of events that may be what we call in our regulations night clubs or similar places of entertainment. This is just a sit down restaurant.

Attorney Sabatini: This is a restaurant use, I don't know about night club, we're not a night club.

Ed Meehan: They mentioned it in a prior, just want to clarify it for now. They aren't going to have those events?

Attorney Sabatini: Well, I don't know about that, but it's not a night club. I mean, you are saying that if they have a poetry reading that's a night club? I don't.....

Ed Meehan: No, but if you had an open mike with comedians, you haven't got people necessarily sitting down at fifteen seats, there could be people standing.....

Attorney Sabatini: First of all, they are applying for a restaurant liquor license, so the liquor license are all controlled by the State of Connecticut, and the different classes of liquor license, they are going to apply for a restaurant liquor license. I'm not sure that any other use is allowed there, other than a restaurant liquor.

Ed Meehan: Okay, I just, so restaurant, sit down meals, restaurant.

Attorney Sabatini: That is what they are applying for, they are not applying for a café or anything like that.

Commissioner Ganley: I think, picking up on Commissioner Fox's comment, the licenses out on the turnpike were granted as a combination liquor/food license, etc., so to approve those, one looked at the totality of the activity that was going to be done on those pieces of property, and in those premises and that's how you determined what the parking spaces would be. I suspect there is something factored in as to people going in and merely sitting at the bar as opposed to just going to eat. What we have here is a situation where we incrementally increased the activity, laundromat, to restaurant and now liquor and we are now, allegedly, not able to reconsider what the parking is, and once again, I focus, not on the liquor license per se, but on the increase of the activity there, irregardless of what it is, and by the way, now I have more recollection of the petitioner coming in the last time and talking about some types of entertainment going on there, I don't recall precisely what it was, but I do remember them coming in and saying that, so assuming, for the sake of making an argument, that were true, that would be another piece of activity on the same piece of property, same square footage, same parking and I believe that we

are justified in looking at the whole menu of activities on the site, and then therefore determining if the amount of parking is appropriate, as it relates to the activities on the site.

Attorney Sabatini: I understand your point Mr. Ganley, but the regulation speaks only about two things, the size and the parking that is associated with the size, and then the third thing is the use, so you look at the use, restaurant, you look at the size, six hundred square feet, you look at the regulations, at the table that says your restaurant use you are allotted so many spaces per thousand square feet, and you are limited by that. Now, that is what it is. Now what you are talking about is what I alluded to earlier with Mr. Fox, and that is, you are talking about maybe some enforcement. If they do something that is different than what they are approved for, well, that's a different thing. That's enforcement. I'm only here to tell you that they are looking for a restaurant/liquor permit, 600 square foot restaurant that requires the parking that they have. They meet the regulations, I want to have liquor, they have 600 square feet, I can't stick a lot of people in 600 square feet. I have a fifteen seat restaurant, that the thing. If something else happens down the road, well, that's their problem, I guess, but I'm here to tell you it's a fifteen seat restaurant looking for a liquor, and there is nothing, again, I hate to go back to this, because I looked through them all, and I'm sure Mr. Meehan will point that out to you, there is nothing in the regulations that says that a restaurant serving liquor has to comply with more parking than what a restaurant use requires.

Commissioner Fox: I seem to be doing a lot of talking tonight, but I really want to get a lot of things squared away in my mind before I make a decision, this young couple, I think they are relatives, cousins, have a great idea here and are doing a good job, I've been in there, it's nice and it's clean, well taken care of, they have a nice little menu, but before they add liquor to it, I just want to get everything set up here, and as Commissioner Ganley said, we were talking about, and I do believe that they did say something about open mikes, and they did say something to me about open mikes and affairs like that, if we granted them the approval for the liquor permit, and this is through the Commission to the Town Planner, not a night club permit, if they did have an open mike or a poetry reading, or whatever, karaoke or something like that, would they be required to come before us and say, we're going to have an open mike this week, we're going to have an open mike once a month or something like that, such as Kiwanis does for their things or the auto show.

Ed Meehan: Well, they are not analogous to those non-profit organizations like the Chamber or Commerce, no, I think they would be going beyond the restaurant special permit/liquor permit if they did thing of a night club nature. If it's a sit down restaurant as Applebee's or the others mentioned, Outback, then they're conducting their business, selling liquor associated with serving meals. If they stop serving meals at nine o'clock and they bring in music and disco and comedians, and open mike, then it's no longer a restaurant. It becomes, I guess in the regulations, I think we would define that as a night club, and the occupancy in a night club is different than the occupancy in a restaurant, so I think they would be in violation of the special exception.

Commissioner Fox: I'm just trying to bring this up because it was mentioned in the last application and when I visited the place they did mention things like that, so I just wanted to make sure that if it is approved, they are not going to get themselves in any trouble.

Attorney Sabatini: Just to follow through, because when, if this is approved as applied for, when we apply for the liquor license from the Liquor Control Commission, we have to bring the application back to the town, Mr. Meehan as a representative has to sign off, saying this is the approval that we have approved, and the liquor license that is going to be issued is going to be based on that approval. It's not going to be based on a night club or anything else, it's going to

be based on the approval, and the Fire Marshal signs off on it, and the Town Clerk signs off on it, so the application has to be for what is approved. It can't be for anything else.

Commissioner Pane: Madam Chairman, through you, what kind of license does Cugino's have?

Commissioner Fox: Good point.

Commissioner Pane: Maybe the Town Planner might be able to answer that.

Ed Meehan: They have a restaurant license.

Commissioner Pane: A restaurant liquor license.....

Attorney Sabatini: And Elvis is in the house, every weekend. Not to say that anything like that is going to happen here. Just a joke.

Commissioner Kornichuk: I just have one question for Ed. Ed, I don't, when we approved this petition, did we do any type of parking restrictions? Did we grant them any kind of leeway?

Ed Meehan: They were granted a variance for parking off site in the town right of way. A variance of the ten percent green space, and as mentioned by Attorney Sabatini, the easement to park on town property. The arrangement for the seventeen spaces was sort of backed into because for a public restaurant you need twenty spaces per one thousand square feet of public seating area. As has been mentioned here, they don't have a thousand square feet, so the six hundred and the seventeen spaces are pretty close as far as the ratio and they basically maxed out everything they could as far as parking.

Commissioner Kornichuk: But that's just for the restaurant use.

Ed Meehan: No, that's for the restaurant use and the Laundromat combined. All uses combined, dual use.

Commissioner Kornichuk: Okay, because you lost me there, you said twenty spaces per thousand for a restaurant, and then you said they are using only six hundred for a restaurant and you said that was seventeen spaces.

Ed Meehan: Well, what the Commission did was, so that the whole floor space didn't turn into public seating area, which would have required more than seventeen spaces, when these applicants came in, they segregated the area between the laundry facilities and they built out the restaurant to the capacity of the parking, and that is how they came up with that six hundred square feet. Could they, could another occupant take this whole thing apart and just make it one hundred percent restaurant? There's not enough parking. They don't have enough parking.

Commissioner Kornichuk: Okay, but where you're losing me is with the six hundred square feet and seventeen parking spaces, so that in reality there is no parking for people who are using the Laundromat.

Ed Meehan: No, there is. I guess I'm not explaining it correctly. It's twenty spaces per one thousand.....

Commissioner Kornichuk: For a restaurant.

Ed Meehan: For a restaurant. They came in with six hundred square feet which is about twelve spaces I believe, and the other four or five spaces was for possibly the dual use of other patrons using the laundry facilities plus employees.

Commissioner Kornichuk: Okay, I get it now, you were saying seventeen for the restaurant, and weren't leaving anything for....

Ed Meehan: That is what the other spaces are for, they have a couple of employees that need to park, or they park some place else, off site.

Commissioner Correll: I was down there about two months ago, and unless they removed them, there is a light bar, light bars in the whole restaurant area, and the light bar would add something, besides just a restaurant. Light bars, lights that shine down.

Chairman Hall: Right, you can see them in the pictures, they are sort of spot lights.

Commissioner Fox: In other words, you are talking about spot lights, in other words there is going to be somebody up there singing, they can spot light them, is that what you are saying?

Attorney Sabatini: It's part of the décor.

Commissioner Correll: That's what I was questioning.

Attorney Sabatini: That's just normal track lighting, they don't have any other lights.

Chairman Hall: Any other Commissioner comments? My only comment is that it is called Spin Cycle, and we seem to have come a fairly long distance from Spin Cycle. It started out as a Laundromat, I remember sitting and listening to the presentation that it was going to be a Laundromat, and then it has evolved into a restaurant as well, and eventually it will turn into a bar/restaurant and Laundromat, and my concern is that they keep adding and we have no control over the fact that they would have comedy nights, poetry readings, whatever, that would create and that will create an enforcement issue for us, because if it gets out of hand, it is going to come back to us, and unfortunately I don't agree with Attorney Sabatini when he says, well, that's their problem, it ultimately becomes our problem, whether it's a problem of crowd control, parking or public safety, no matter where they park, they start walking in the road, to get here because maybe they will use the shoulder of the road because there aren't enough parking spaces, ultimately it will come back to us, and I think we need to take that into consideration, that if we make the decision, we have to be ready for the consequence. Any other questions? Since this is a public hearing, we are going to get to the public part of it. Is there anyone wishing to speak in favor of the petition? Please come forward, state your name and address.

Joyce Boncal , 18 Kinnear Avenue, Newington: I'm in favor of granting them this liquor license because I have been in there, I have eaten in the restaurant, it would just be nice to sit and have a glass of wine with a meal.

Chairman Hall: Thank you. Anyone else wishing to speak in favor of the petition. Please come forward and state your name and address.

Jack Morgan, 23 Paris Lane: I'm a customer at the Cycle, Spin Cycle Café. I didn't know the folks before it opened, I was curious when it did open. I thought it was a great idea. I want to keep them in business. You folks have the opportunity now to give them just a leg up, a little something extra, I think all of us have gotten that during our lifetime, a little something extra, like icing on the cake. I want to see them remain in business and quite possibly your decision tonight

or whenever you are going to make it, could be the difference between success and failure. Most of you folks have been around town for some time, you remember that property was an eyesore for so many years, it's awesome now. They didn't build the building, but they brought the business and I want to keep them there. They are paying taxes, looks great, I want to give these two hard working people a leg up, I ask you for that consideration. You have the opportunity to give them something they need, hopefully to stay in business and remain there. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor?

Marshall Dreshler, 26 Thornton Drive: Mr. Morgan has said just about what I was thinking. What you have to understand when you look at the owners, you really couldn't know two nicer people who have worked extremely hard to get the business up and running, and I have been a customer of them now for a while, and I'm really proud to have that type of business in Newington, two young people who are trying to create a new type of business and succeed and as with any business you tend to need a little help, and that's what I'm looking for, for this group of people, to actually help them because when you help one small business, there will be other small businesses who will look toward Newington and maybe relocate there. If you go into the center of Newington look at some of the storefronts that are just not being used. They had a good idea, they went with it, and hopefully they will succeed with it. But with any business, sometimes you need a helping hand and I am asking this panel, or Commissioners to help them.

Chairman Hall: Thank you, anyone else wishing to speak in favor?

Nancy Hadley, 16 Crown Ridge: Doing laundry to me is like a root canal, I hate it, and I hate taking the down comforters and I hate taking those curtains when you have to get the dust off of them, and you can't put them in your laundry at home because you really need a bigger space, and I have been going to that little Laundromat in downtown Newington for probably all of my fourteen years of being here. When I would go in there, I would throw the stuff into the washer, jump in the car and run to Foodmart, run back, throw them in the dryer, run off to the drug store, run back. Now, the price of gas is \$3.50 a pop, so two weeks ago, my daughter who is twenty and I are having a negotiation about who is going to get the car, because the car is expensive to fill up with a tank of gas. So the deal I cut was, okay, drop me off at this place, because somebody told me that there's WiFi there and a couch that I can sit at, and someplace where I can get a sandwich and I'll plop myself for four hours and do the down comforters because those stupid down comforters take forever. So I plopped myself in this place, I had no idea what it was, never been there before and I started asking these guys questions like, what is this thing. Well, I think you have a creative sociological little miracle going on for baby boomers here. We shouldn't be driving all over town, we've got to do the comforters and the down jackets and all this stuff that you don't want to send to the dry cleaner and you are in there anyway. To me, it is first and foremost a Laundromat, and I hate going to Laundromats, but if you can make it somehow a pleasant experience for me, and get me to sit there and do it, and I sat there for three hours, three and a half hours, had my computer, went up for a sandwich, I kept running back, they kept giving me quarters, whatever, there was a big plasma TV. If the Super Bowl game was on, I probably would watch the Super Bowl. Now, I work outside of Bridgeport from Monday to Friday, I come home on Fridays and I get out of here on Monday, so my weekends are the laundry kind of thing, and my kids aren't very good at doing it themselves, so I wind up having to do it, in fact you will probably see me Friday night again with another load of whatever, so I just want you to know that I think that the issue here is the customer, the customer wants to stay there, get this laundry done, not run all over the place, they want to eat something, I'd love a glass of wine, or a beer, or I want, I don't know, an Irish Coffee when it's twelve degrees below zero, or something like that. What you are doing is that you are getting me to do multiple things, not use my car because it is very expensive to use a car now, and we're getting it accomplished, so I would like to see these guys, not only succeed here, but I would like them to franchise it because I think

there is a market for this kind of thing. It was safe, it was clean, it was environmentally separating the laundry from the food, I have found this to be a little, little creative baby boomer miracle thing and I urge the Commission to approve it. I use my car less there than I did when I was running all over the place in downtown Newington, because it got me to sit there, and got me to do what I had to do, in fact he came over to me today, "I'm going to start changing your rent, you've been here for four hours," because I started doing something on the computer and lost track of time. So, I just encourage you all to know that this is a new sociological thing going on here, and we're not going to take this stuff to the dry cleaners, we're going to take it to the Laundromat, we're going to be there for hours, and if I have to sit in the downtown Newington one, where there is nothing else that you can do, I'm going to jump in that car and I'm going to run around. If you put me over there, and give me a choice to watch TV or do WiFi or I can have a sandwich or a glass of wine, God Bless You, so I just wanted you to know that you have a tiny little miracle going on here, and just like I drove back from Syracuse two weeks ago, and I'm hearing this Bob Discount, he's on there going, when I opened my first store in Newington, Connecticut and now we are at number forty-nine, wherever he is doing Bob's Discount, I didn't know that he started in Newington. I can see ten years from now this Spin Cycle is going to have a hundred of these all over the country, and I expect you to get on and say, when I had my first one in Newington, Connecticut, so I am very much in favor and support. Thank you very much.

Chairman Hall: Thank you Nancy. Anyone else wishing to speak in favor? I don't mean to pick on anyone, but please, we're trying to keep this to two minutes, so if you can come up and state your case and try not to say what has been said, I think we all would appreciate it.

D. Ciccariano, Newington: I think this is a new concept, and I personally know the owners, so I know that they are responsible people, so I would hope they would have this.

Chairman Hall: Thank you very much, anyone else wishing to speak in favor? Anyone wishing to speak in opposition to the petition? Anyone wishing to speak to the petition. Please come forward, state your name and address.

Jesus Ortiz: Good evening, I am one of the two owners of the Spin Cycle Café Laundromat at 190 Fenn Road. I just wanted to clarify as far as the application for the liquor license. We want to keep it beer and wine right now, and we are not opposed to changing our small gatherings such as open mikes and so on, maybe minimizing them, right now it's, we're doing it to get by, and we actually depend on those events right now, I think if the beer and wine were approved it would be more of a steady business coming in, and we would have no need for big events, and so on. I'm not saying that we wouldn't do them, but there wouldn't be such a need for them. Please take that into consideration. Thank you.

Chairman Hall: Thank you. Come forward, state your name and address.

Laurie Rosario: I am the co-owner of Spin Cycle and I just wanted to clarify something, Madam Chair. Originally when we were accepted for the special exception for the restaurant use, it was as the full name, our LLC is Spin Cycle, but the full name that we had entered was Spin Cycle Café Laundromat. The concept, the dual concept was from the very beginning, having the restaurant plus the Laundromat as one. It was never intentionally started as a Laundromat and then we added a few other items to the plate. The other thing that I did want to clarify, our gatherings for instance the Laundromat dating, the dance lessons, these are things that we offer when people are going their laundry. It's just a past time where it would give them more of an attraction to come to our location because there are other things to do. The open mike, basically, we showcase art, local artists from all over West Hartford, Newington, Hartford, what have you, but this is again, something added for our customers who are there to do laundry and perhaps have something to eat or drink, that they can actually enjoy visual stimulation through art, and at

the same time, they are clients of ours, I mean customers, who come. They sit down, and you know, they recite their poetry, or what have you, and a lot of them practice, a lot of them are performers who have a venue somewhere else, where it is much larger, and they come and practice at Spin Cycle, that is how comfortable they feel there. It's not as if we are attracting loads of people to the location, this is just an added entertainment that they have while they are there. Thank you.

Chairman Hall: Thank you. I think now we have taken in everybody. At this point I think we have probably have pretty much talked this, consensus to close?

Commission: Yes.

Chairman Hall: We will close the public hearing.

E. PETITION 11-08 – 395 Willard Avenue, Rotundo Developers, LLC owner, Mervyn L. Rimai, MD applicant represented by Milton Lewis Howard, One Regency Drive, Bloomfield, CT 06002 and Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Special Exception Section 3.2.9 Adult Day Care, CD Zone District.

Alan Bongiovanni: Good evening, Madam Chair, Members of the Commission, Staff, for the record, my name is Alan Bongiovanni representing Dr. Mervyn Rimai, and his newly formed company Family Adult Day Care, LLC in this application before you tonight. We're asking for a special permit to construct an adult day care facility on Willard Avenue. The subject property is on the west side of Willard Avenue, just north of Alumni Road, actually just north of the project that you approved two years ago, Fountain Pointe Office Park. Located north of the office park, and south of the office condominium development that was built in the late '80's and has been occupied by Abraham's Insurance and other local businesses for many years, and to the west the former Torrington Company or Fafnir Bearing. The subject property is two acres in size, as you read, it is in the CD Commercial District Zone and the use that we are asking for is a special permit for the use that we are asking for is permitted in all zones under Section 3.2.9 of your regulations, Day Care and Adult Day Care Facilities. Having said that, I'm going to have Dr. Rimai introduce himself, who he is, about the business that he proposes to operate at this location, then I will finish off with the other items that are necessary to meet your requirements. Thank you.

Dr. Rimai: Ladies and Gentlemen of the Commission, my name is Mervyn Rimai, I live at (inaudible) Asylum Avenue West Hartford, and I have been interested in developing a day care for adults, over the last several years. I've been practicing internal medicine in Bloomfield for the last thirty-five years, during this period of time, internal medicine has evolved a good bit. I'm sure that all of you know that sixty percent of internal medicine is geriatrics, and when I started out in practice, there were basically two sets of elderly patients. There was the completely independent who had their own home, they were living, they were driving, they were shopping, they were going on vacation, they were doing absolutely everything including working, and there was the second group of patients, these folks were completely dependent. They were living and residing in nursing homes, either for short, acute care, getting repaired from various hospitalizations and rehabilitation, and then would evolve into general custodian care, where they spent the rest of their lives in these institutions.

During the last fifteen, twenty, twenty-five years there has been a third group of the elderly who have made their way onto the scene, and I guess a lot of this is related to an aging baby boomer population. This is a group of folks who can no longer fend for themselves for various reasons. Either they have physical disabilities and needs, or they have early dementia, middle dementia, occasionally later dementia, and they're not on state welfare so they've been living, either in their

own homes, with a caring relative or friend staying in the house during the normal working day hours, might be a cousin, a grandchild, a very good friend, and/or these folks have been living with their children, daughters, sons, in their own home, who also are working during the day, and this has led to a need for true day care for these adults. Basically these folks are left either, they generally are left at home, they have no social contact except for the television set. They may have some, enough dementia to get them into trouble, they can wander out of the house and get lost; they can turn on the stove and set and fire and burn the house down; or fill up the bathtub with water and let it keep running and overflow and flood the place, and so there has been the development of adult day care throughout Connecticut, throughout the United States. I recently looked at some numbers and in Hartford County there are about 300,000 people over the age of 50. This is about twenty-five percent of the population, and it's going to grow. The U.S. Census Bureau said it's going to grow, the State of Connecticut Census Bureau says its growing, and I think it is obvious to everyone around here that it is growing. We are proposing to open a state of the art adult day care to take care of a good number of these folks while their current care givers are at the work site so they can come in approximately eight in the morning, go home five o'clock in the afternoon, at the end of a work day, receive a nutritious noon meal, snacks, nutritious drinks, have a stimulated environment, with a whole bunch of activities, and when we get into the site plan, if anybody is interested, we can open up the interior design of our facility, show you what we are planning to put in there. Currently in Hartford County there are thirteen day care facilities. Two of them are only operating on a what's called a social format, meaning that there is no medical care. We are proposing a medical format, day care with a nurse on board, CNA's as our primary care givers, so that these folks, if they need help with nutrition, they get it, if they need medication, they get it, if they need any kind of dressing changes and assorted other medical issues, they can get it. What we have seen during this time, in many of these facilities, and incidentally, there is none in Newington as far as I can tell, and there was none in the Connecticut statistics, what I have seen is most of the existing facilities have generally one or two large rooms, and these rooms are used on an ad hoc basis for whatever activity goes on and depending on how many people are there, they may or may not be interested in doing the same thing. My wife and my philosophy has been that different people have different interests. We're interested in a relative large population of day care recipients and everybody has different interests, so we've set up our building, designed by my architect, Mr. Milton Howard, to have dedicated rooms. Large dining room, an arts and crafts room, exercise room, TV room, music room, library, where different people can go to do different activities. Activities most controlled by a therapeutic recreation expert who has been trained with the help of assistants and the aides that are there. In addition we are developing this with handicapped accessible showers because many of these elderly people because of their physical handicaps are very difficult to bathe at home, they have trouble getting in and out of tubs, or showers. We will have a facility to be able to take care of that hygiene while they are at the day care. We plan to have hair dressers and barbers coming in so that they can get groomed which takes a burden off the shoulders of the primary care giver, who might only be able to get somebody to the barber shop that closes at 5:00 o'clock after they get home from work, or on Saturday. Same thing for Grandma who needs to get to the hair dresser, the only time a normal care giver would be able to get her there would be on Saturday. We will have these facilities in our building. People who need transportation to and from doctor's appointments, hospital visits, or x-rays, tests, lab tests, things like that, we will be having handicapped vans to transport them to and from our facility, if that is an issue, and to and from these various appointments. So I think that we have a plan developed for providing the care, the need, we estimate that we will be able to cover an area of about a ten mile diameter from this address with the vans and be able to transport willingly, and that takes in about ten towns. There is a huge number of people who live in that environment, that need this kind of care, and the need is growing. All of the census bureau data has shown that it is growing. I think I have covered the issues of need, you know, what our plans are, basically my credentials and leave it open for questions.

Alan Bongiovanni: Thank you Dr. Rimai. To continue with presentation and meet the intent of the regulations, one of the things that Dr. Rimai didn't touch on, it's anticipated that this facility will be able to accommodate about a hundred clients on a daily basis. He will have a staff of up to about thirty people. Not only will they have vans available, to bring clients to and from doctor's appointments, all people, clients that are going to be cared for at this facility will be picked up at their home and dropped off at their home. So you don't have a massive influx at seven o'clock in the morning, a hundred cars, like a day care, dropping off and in the evening, a hundred cars picking up. There will be up to five vans that will, depending on the time of pick up and location from probably seven to nine or ten o'clock in the morning, cycle through the property, picking up at the various locations, dropping off and then returning home in the afternoon. That brings us to safety and access. We think that is a key component to this being a very palatable use. Willard Avenue to the east, to the south is the Fountain Pointe development, this property has the rights to use this driveway, we're proposing to use the existing driveway off of Willard Avenue which would provide a right turn in, for southbound traffic and a right turn out for the traffic traveling in a southbound direction. We would just continue this driveway, the driveway terminates in this location, we also have the right to use the driveway for the Newington Business Park, which comes out to Alumni Road. We would just continue the driveway here, attach it to Newington Business Park and then everybody wishing to go in the northbound direction would leave the site by Alumni Road and a signalized intersection at Willard Avenue.

Going to Section 3.2.9, I think when we get into the site plan, I will say for the record the proposed building, parking, utilities, meets and or exceeds all of the criteria of the town zoning regulations or applicable engineering standards. This facility fits very well on this property, there is no major grading, we do have an active application before the Wetlands Commission to address a reconfiguration of the storm drain in the northwest part of the site, but we believe that this site has adequate frontage and is of adequate size to accommodate this facility.

Item B under 3.2.9, all such uses shall be approved by the appropriate department of the State of Connecticut, this actually isn't correct in the regulation for a senior or adult day care. There is no actual state agency that licenses or inspects this type of use. There is a peer review agency that inspects each other's facility to make sure they have their own standards, it's a self regulating type of thing, so Item B really isn't applicable to this type of use.

Item C, any permit issued under this section shall not be transferable. Dr. Rimai understands that and it is acceptable.

The zoning permit, Item D, would be issued for two years to coincide with the state license, or renewal date, again I think Madam Chair, if you have the staff look into this, you would agree that we would be happy to review on a bi-annual basis, but it wouldn't be contingent on state approval since there is no state approval.

Item E talks about renewals, and the forty-five days prior to expiration, Item F, all day care shall register with the building department, that would be appropriate, and Item G addresses if it was in a residential zone.

The last thing that I would like to touch upon without getting into the site, unless you have questions, procedures and standards for all special exceptions, or special permits under Section 5.2, specifically 5.2.6, the need for the use in the proposed location. I think Dr. Rimai was very eloquent in his explanation of how he determined there to be a need and this being a suitable location in that there is a large demographic within a ten mile radius that would be available to use this facility.

Item B, the existing and probable future character of the neighborhood in which the use is to be located, this is actually the last parcel. The existing uses, we have some multi-family apartments to the east, but we have commercial, professional offices to the north and to the south and mixed use industrial to the west. This is in keeping with that same theme, professional use. When we get into the site plan, we will talk about the architecture of the building and how we have many similarities to the style and proportion of what was just built to the south, so we think that it is well in keeping with the neighborhood, and I don't think that the future use of that neighborhood will

change, it's basically all developed now and all apparently in good operating condition where there is no blight, where you would see any reuse of the property.

The size, type and location of the main and accessory buildings in relation to one another, and the relation to other structures in the vicinity, single building, single floor building, just to address this item, I'm going to quickly put the rendering up, but I don't want to take Mr. Howard's thunder from his later presentation. The style, the architecture, is not exactly the same, but it is, this is the Fountain Pointe development, it is in same character. So we think it is appropriate, we think we meet the intent of the regulations.

Item D, traffic circulation, I believe I've addressed that. Given the two acre commercial district zone property, this is probably one of the least intensive track uses that you could actually get because most of the people that will utilize this facility will be brought in here through a mass transportation system with the exception of the employees.

We are also, for the record, if successful before this Commission we'll be submitting to the State Traffic Commission, we would actually be required to modify the State Traffic Permit for the entire former Fafnir property because this is connected to that.

It is going to be serviced by MDC sewer and water. Location and type of display signs, lighting, landscaping and the impact of the type of signs on adjacent properties, there will be small directional signs around the driveway, there will be a proposed monument sign in the center of the property, set back onto the property, of a low nature well within the regulations, that would be compatible with the architecture of the building, they haven't actually designed that sign, although that would require it's own special permit because it would be a free standing sign.

Safeguards, Item G, to protect adjacent property in the neighborhood in general from detriment including but not limited to proper buffering. Because this is a use that is compatible, with the surrounding uses buffering is typically not required. If we were abutting a residential zone that would be a different incident. We've designed, we've had Patrick (inaudible) a design landscape architect design a very comprehensive landscaping plan. It is Dr. Rimai's desire to make a first class facility here and not to skimp on the building, the site design, the landscaping, and I think we have done a very, very nice job to adhere to his desires. Having said that, I know it's getting late, if you have any questions, I'd be happy to answer them.

Commissioner Pane: Madam Chairman, through you, I'm not sure if I caught the hours of operation?

Alan Bongiovanni: They will probably be seven to six, or seven o'clock, the idea is, if the primary care giver is working eight to five, well, I'd like to have my mom picked up before I leave for work and come home sometime after, so it's not a, you know, a four o'clock in the morning to twelve o'clock at night, it's around the business hours, and it's Monday through Friday.

Commissioner Pane: And one other question, Madam Chairman, could you have Dr. Rimai explain the staff and what kind of staff we have and like how many R.N's or how many.....

Dr. Rimai: We are anticipating one R.N., I'm considering the entire staff to be about forty people. The bulk of the care giving staff will be trained CNA's, certified nursing assistants, the basic staffing requirement by the peer group, which is the Connecticut Association of Adult Day Care Centers is one care giver for every six to seven clients, I will have a cook, chef, probably additional kitchen help will be necessary to work in the kitchen and help serve meals, office staff, including my wife as administrator for example, secretarial staff, bookkeeping, reception staff at the entrance way which is behind the porte-cochere which you will see later on. Drivers for the vans, and other people will be essentially on contract. A dietician coming in to oversee meal plans because we need to maintain U.S. recommended nutrition status, a social worker to help work with care plans and family needs, janitorial help.

Commissioner Pane: Thank you very much. I think this is something that is definitely needed in the area, and it looks like you have come with a real nice plan here.

Commissioner Pruett: Will the activities be confined to indoor use only, or will there be outside recreational facilities?

Dr. Rimai: We are counting on using the landscape for picnics in the summer and that kind of thing. What kind of outdoor activities.....

Commissioner Pruett: I was just curious if there were outside activities would there be a secured area if there are like Alzheimer's patients.

Dr. Rimai: Oh yes, we'll have the area secured and our care givers will be outside, the clients are not going to be roaming the streets. We want them to stay safe.

Commissioner Ganley: Just a technical question, not a procedural one, Petition 11-08, which we just read has you listed at 395 Willard Avenue. Petition 12-09 under New Business, 375 Willard Avenue.

Alan Bongiovanni: If I could Madam Chairman, 375 was a mistake, it could have been on my part. 375 is actually one of the former (inaudible) to the north, 395 is the correct future street address.

Commissioner Ganley: Okay, procedurally, is Commissioner Correll returning?

Chairman Hall: He is not.

Commissioner Ganley: It is then within the power of the Chair to then shift over Commissioner Kornichuk for the rest of the evening as the Vice-Chair, and then seat Commissioner Niro in Commissioner Kornichuk's place, or switch Commissioner Niro over to Russ Correll's place, because we are going to be voting, and if he is seated, he can vote.

Chairman Hall: Right. Okay, duly noted. Since you are here, just in time. I will be seating Commissioner Niro, Commissioner Correll has left for the evening, and Commissioner Kornichuk will be moved up to Vice-Chair for the remainder of the evening, and Commissioner Ganley is already seated for Commissioner Schatz, so I think we have almost a full house tonight. Thank you. Getting back on track, anybody else have a question at the moment, we still have to get to Ed.

Commissioner Fox: Through the Chairman, I just want to echo Commissioner Pane's thoughts, being half, my wife and I being primary care givers for my mother-in-law, she is at day care in Plainville, I think a number of people in the area would really benefit from this, providing every thing goes smoothly. Thank you.

Dr. Rimai: We designed, or we had Mr. Howard design this to convey the feeling of a home like atmosphere. When somebody comes in, I don't like the idea of going into an institution, I've seen so much of that, and there are several day care facilities owned and operated by the non-profits around, McLean Home, Hebrew Home, Avery Heights, that we have specifically designed this so that somebody would feel like they are going from their home to our home, and really have a pleasant environment.

Chairman Hall: Ed, do you have anything?

Ed Meehan: No, I met with the applicant, the doctor before I think he got too far into this property, and I was very impressed with how thorough he was with his plans so we have had two or three working meetings, plus with Mr. Bongiovanni. We have had a lot of conversations about this, so I think everything has been covered so far.

Chairman Hall: Any other questions before I turn to the public? At this time if there is anyone from the public wishing to speak in favor of this petition, if they would come forward, state your name and address.

Claudia Montano, 425 Old Reservoir Road, Wethersfield: I'm a nurse, for far too long, but I am the owner of CM Advocate Services which means that I place people in convalescent homes, assisted living, independent living, and I would say, real strongly, that we need adult day care for a lot of reasons. Number one, more and more people are staying home and I think everyone in this room has someone that they know, relative, or someone they know that needs this kind of care during the day. Where older people are sitting home doing nothing, as the Doctor said, watching TV, not eating right, falling at home, and actually about five years ago when I started, well three years ago when I started my business, the highest population of seniors in the State of Connecticut was in Wethersfield. So we have this right in our backyard, so I just think Dr. Rimai's idea is a great one, if I had the money I would have done it too.

Chairman Hall: Thank you. Anyone else wishing to speak in favor of the petition? Anyone wishing to speak against it the petition? Anyone wishing to speak? Seeing none. Is there anything that you think could be added by keeping it open?

Ed Meehan: I don't think so, I think you have all the information that you need on its use and operations and hours, days, services, traffic, I think everything was covered under the Special Exception.

Chairman Hall: Okay, fine, and again, if we can get a consensus to close this? That is what we will do, close Petition 11-08.

III. PUBLIC PARTICIPATION (relative to items not listed on the Agenda-each speaker limited to two minutes)

None.

IV. MINUTES

March 12, 2008

Commissioner Pruett moved to accept the minutes of the March 12, 2008 regular meeting. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

V. COMMUNICATIONS AND REPORTS

Ed Meehan: I have two brief items, remind the Commission members if they have some free time tomorrow night the Economic Development is having the open house at Cugino's to introduce to town center businesses and property owners the idea of a town center merchants association. That is at 5:30 p.m.

Secondly, through the efforts of Mayor Wright, as you know a letter was written to the Department of Transportation asking for a meeting with ConnDot to discuss Cedar and Fenn. Those efforts

have paid off and there is a meeting scheduled for this Friday with ConnDot staff and I will report back to the Commission on the result of that meeting.

VI. NEW BUSINESS

- A. PETITION 02-08 418 Willard Avenue Udolf Properties owner and applicant attention Mr. Leonard Udolf, 2475 Albany Avenue, West Hartford, CT 06117, represented by HRP Associates, Inc., 197 Scott Swamp Road, Farmington, CT 06032, attention Frank Sova, PLS, request for site plan modification to construct a 31 space parking lot. PR Planned Residential Zone District. Continued from March 12, 2008. Sixty five day decision period ends April 18, 2008.**

Ed Meehan: The applicant has been working with engineering staff and myself, we have had a couple of meetings with the engineers concerning issues with on-site drainage control, and trying to get the system to work efficiently. They still didn't have their drainage calculations complete and they have asked to postpone this evening and be ready on the 9th. We have asked them to be prepared to grant the Commission the extension to your next meeting on the 23rd if it is needed so that you meet the sixty-five day decision period. So hopefully by next meeting they will have all of their issues resolved with our town staff.

- B. PETITION 12-08 – 395 Willard Avenue, Rotundo Developers, LLC owner, Mervyn L. Rimai, MD applicant represented by Milton Lewis Howard, One Regency Drive Bloomfield, CT 06002 and Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan approval 14,800 sq. ft. building Adult Day Care Use. CD Zone District.**

Alan Bongiovanni: Thank you, again for the record, my name is Alan Bongiovanni representing Dr. Mervyn Rimai and his company Family Adult Day Care LLC. I would like to spend a few minutes talking about the details of the site plan, and then will introduce Milton Lewis Howard the project architect to talk about the actual facility that is being proposed. Quick recap, the subject property is a little over two acres in the CD Zone, located on the westerly side of Willard Avenue, just north of the recently approved, recently constructed Fountain Pointe Office Park. We are proposing, I think it's almost exactly 14, 800 square foot, single story building, in the central eastern portion of the site. Access is going to be through existing curb cut at Fountain Pointe to access the property in the southbound direction, if you were coming in a northbound direction, you would come through the light at Alumni Road and then through the driveway that services both Fountain Pointe, Newington Business Park and then continue to access this property as well. Circulation for two way traffic for the parking lot in the rear, and when vans come to drop off the clients, they would come in through the site, one way traffic, they would pull up under a large porte-cochere so they would have coverage, protected area to get in and out of the vehicles, and then the vans would leave through this area. We have visitor parking up front and adequate handicapped parking for the facility. When Mr. Howard talks about the architecture, talk about the north side he has administrative offices, so has placed some parking along this space here. Dr. Remai talked about having forty employees. At any one time it was anticipated that there would be about thirty employees so we designed the parking and the parking count to accommodate five administrative employees, thirty day care employees, ten visitor parking spaces, and five day care vans for a total of fifty spaces, we proposed fifty-four spaces.

This piece of property is a remnant of what was known as Lot #11. This whole piece encompasses the Fountain Pointe development up to Alumni Road, the six acres, it was subdivided and when this whole subdivision was done on the former Fafnir property, drainage was done for the facility. To the west of the property, northwest are two retention basins. We are proposing to reconfigure them to accommodate this development as all of the land slopes from

Willard Avenue towards that northwest corner and we are proposing to maintain that same drainage pattern. We have designed a drainage system that is a little more eco-friendly than most traditional systems in that we are utilizing the system of biofiltrations, swales, minifiltration, to pre-treat the storm water prior to getting to the wetlands and retention area. The storm water retention has been designed to accommodate any increase in impervious area that this project will create.

It is serviced by MDC sewer and water, both are out here on Willard Avenue. There are two utility lines that currently service a portion of the former Fafnir building, we are going to relocate those to accommodate this construction. Dumpster at the left rear corner of the building, or the southwest corner of the building, there is a service entrance, the kitchen will be located in this area. We are proposing to extend the wall of the building to create that dumpster screening enclosure along the service and loading area, and then put a gate to screen that area. Site lighting is designed using the typical shoe box style fixtures so that all the light is shining down and not onto the neighboring properties. Typical light pole heights as required by our regulations, and landscaping that I think is really commiserate with the style of the building and the type of business Dr. Rimai hopes to portray. It was done to provide some nice streetscape, seasonal color, nice definition around the foundation and then create some of the features so if they do have on nice days, a group of people that they want to take outside, you know, sit on a bench on the back patio, or picnic on some of the lawn area, it would be conducive to that. To the west of the property there is an existing berm that goes across most of this. We are going to preserve as much of that as possible, because we have some drainage work to do, we will reduce it some, but that helps screen us from the large industrial building to the west.

I think that covers the site plan, if you have any specifics that I didn't cover, I'd be happy to address them, but I'd like to turn it over to Milton Lewis Howard to talk about the style and the design of the building.

Milton Lewis Howard: Good evening, my name is Milton Lewis Howard and I am the architect for Dr. and Mrs. Rimai, and I'm located at One Regency Drive in Bloomfield, Connecticut. I would like to turn your attention to your drawings that you have, the floor plan, and we will start with that. This is a 14, 800 square foot facility, and it's one story, and it's what we call in the industry, slab on grade, right on concrete, one story and it's a wood framed construction and it's a frame and masonry. You'll see on the elevation of the building that the masonry is about two and a half feet up from the ground and, I was saying, it's a one story, slab on grade and we have wood frame and we have masonry, we'll call it kind of a parapet wall there, around the base of the building. You can see that on our, that kind of pinkish color there at the base of the building. This building is one hundred percent ADA compliant, and it's in full compliance with the International Building Code with the Connecticut supplement. That is the code that governs the entire United States now. As Dr. Rimai had stated earlier, we have a porte-cochere in the front where we have the embarkation and the debarkation, it happens in the front here, and this is covered and is an all weather facility here. Coming into the front of the building at this point, we head for the vestibule and you will see the reception area here, and this reception area is formal and informal. Some of the clients can sit here and socialize here, however in this area here too, this is kind of a central core for a lot of things happening at this point here, and it's kind of an empty space here that leads us into the main dining room.

This is a dining room, and a very formal dining room, and it seats a hundred here. It's forty feet wide and you have full glass, forty feet where you can just see forever out here, and the big sky nice landscaped area, and as Alan pointed out earlier, it's to the rear of the building.

This is the service part of the building on this side here. You have the kitchen, and this is a full service kitchen, and in compliance with the State of Connecticut Board of Health. Here we have the office for the chef, and this, you can see here, this is dry storage area, in here and we have the staff toilets here, and the janitor's closet and these are the refrigeration and cooling units right in this area and bake ovens in this area here, and in this corner here we have the deliveries, and the deliveries, this is our loading area, and we have, in this part of the service yard here is where

we have our trash removal and we do have a shroud around this area here that blanks off the unsightly conditions, however any view, let's say this building has four front views on it. This, looking from this angle, coming from south to north, and this view along Willard Avenue, is just excellent here. From the rear it's a front view also, so there is no back side to the building. Onto the north here, this is the administrative wing here with this parking and coming into this area here and you can negotiate this building, the administrative wing comes into the main building at this point here and you will see from your plans that we have ample exiting. Although the code says that we have to have so many exits, we have exceeded that by at least seventy-five percent. This building, as I said earlier is fully sprinklered and we have in this area, let's just go along here's where we have a laundry facility, and this is like a mini-commercial laundry that all of the laundering is done in this particular area. We have an exit here and we have the custodian's office at this point here, and this is our medical suite in this corner. We have a salon right here at this point also. In this little ante-space in here, there is kind of an informal lounge. Chairs, and this informal lounge happens at this intersection here and we have in this area, we call this secure storage. This is where someone would have valuables and this is the place where that would be stored at that particular time, and this here is just unassigned space at this time, it allows for expansion of the various activities. We have flanking this main dining room, because there is a lot of activity going on in here, we do have the men's and women's toilets here, naturally they are all handicapped accessible.

Moving, coming back to this side, this is a TV room, a relaxing room, and if you will notice here, that the corners are angled, and that actually is to prevent any type of accidents because we will have wheel chairs, we are going to have motorized chairs, and so, and then we will have those with activity limitations, whatever. Naturally we will have the hand rails along the corridors here, and our corridors are six feet wide. Coming this way here we will have the arts and crafts and this is a very large room, this room here pretty much, this is thirty feet by eighteen feet, almost this size, slightly smaller but you can see the size of this particular room. There is a lot of activity that could go on in here and this particular wall here is not a solid wall all the way up to the ceiling, but it will come up to about forty-two inches and then we will have it open going up to the ceiling with classical type columns in here so that you get the aura of spaciousness here and if you notice the front elevation that we have ample, these are windows, and the height of this eve here is ten feet from the ground. Our windows are eight feet high from the floor also, and this is about six feet in length, so therefore you are going to have just very, it's a very open and full of sunlight in these rooms here.

Coming back this way here, on the other side, flanking the reception area is the reading room, our library and this way, going north, now this is our cards and games room. We have the same type of openness in here that, it just expands the space and no one would ever feel closed in because what we are doing, we are and Dr. Rimai had mentioned this earlier, about it's a home atmosphere and this will be the combination of early American, colonial, and it be appointed that way. The, we have a music room here, and this, we will have piano in here, and of course the music will have other electronic means of music in this area, and this particular area is our physical fitness area, and this one is a pretty good size, a lot of activities, a variety of activities will happen here.

Along this corridor here, you will see coats, and this is where our clients will hang their coats at this area here, and we could probably hang coats in here, we will have a variety of places, but this is pretty much earmarked for that, and then we have the janitor's closet at this point. We have, and you will see the in and out, exiting out this way, exiting out this way, coming out, exiting out this way, existing out this way here.

Here we have a little mini-ante space in here, and we have the men's toilets and the women's toilets, these are larger facilities where they have showers, and other special needs. Now this backs up to the administrative suite in this area here, and we do have the men's and the women's and we do have the conference room, and Dr. Rimai's office is here, Mrs. Rimai's office is down in this area. This is the reception area, we have not shown the arrangement of the furniture in here because it may be where we just have the offices without walls, we will have the petitions

and then we will have the receptionist at this particular point in here. Then a lot of the files and stuff will happen in this particular area.

Let's see, this is a means of egress, going to the outside here, to the outside areas for outdoor activities and maybe dining and whatnot, but it was mentioned earlier about the security. We are very much concerned about security and we will have the latest security systems in here including television monitoring of the doors and whatnot and we will be able to note what activities are happening at each point of entry here because that is a very important element of this type of facility.

Here in the administrative suite here, we have the administrative assistant and I would imagine that as many as ten could work in this space very easily, and the parking for this area here is at this point here. We do have guest parking in the front here, employee parking is around in the back there.

We have all of the ancillary facilities in terms of drinking fountains, and that sort of thing, as I said earlier we are one hundred percent code compliant, and I would like to, oh, in this area here, this is a service back in here, and we do have the sprinkler room at this point, the sprinkler valves here, and this is where we bring in our electrical conduits and switch gear and whatnot, it happens at this particular point here. Our gas comes in to, in the front here, into the building and we, the meters are outside but this is where we have our terminals at this point, so I'd like to ask if there are any questions?

Chairman Hall: Does anyone have any questions?

Ed Meehan: I think if you could spend a minute just on the exterior materials, I know you have an effus, some brick that you are trying to match up with the buildings to the south, the roof line, the type of shingles and I see that elevation there, we have some elevations that show two cupolas, what have you decided?

Milton Lewis Howard: We had decided that we would put two up there because of the amount of air that we have to dissipate in that large expanse of roof there, so we could make one but that...

Ed Meehan: No, form follows function, as they say.

Chairman Hall: So those are fans, essentially, the cupola's are fans?

Milton Lewis Howard: Ah, yes, if we need the fan we will put the fan in there, but it would be a natural, the air would come in through the eaves, work its way through, we do have ridge vents up at the top, and on the back of the, if you look at this elevation here, the rear elevation, and on the rear elevation you will see space, mechanical equipment space, and these spaces in here, they are indentations in the roof, and what we will do here, is integrate a certain amount of louvers in here and louvers in here to dissipate some of this volume of air in here, so we didn't want to make one large cupola, we just spread it out, and the air will come through here, come through here, through the roof here and in the cupolas here.

Ed Meehan: Is your gable treatment shingles, shakes, or is that...

Milton Lewis Howard: We are going to use, Dr. Rimai would like to have.....

Dr. Rimai: There is an architectural shingle that kind of looks like slate. That's what we would like to have up there.

Milton Lewis Howard: It will be a simulated slate, beautiful and couldn't tell the difference from street level, but it's a very nice, and it has a thirty to forty year life and that is what we are looking for.

Ed Meehan: The only other thing I would point out is that the roof line, I think on this building is about thirty to the ridge, it's about thirty feet high? Is that correct.

Dr. Rimai: That's correct, yes.

Ed Meehan: The buildings to the south, the building elevation below, they are at about twenty-two to twenty-four, and Dutch Point, which is the far end of that project, with their cupola and hip roof, they are about twenty-eight.

Milton Lewis Howard: Yes, theirs is up there pretty high.

Alan Bongiovanni: A couple of things that guided Dr. Rimai and Mr. Howard were the desire by the land owner, Rich Rotundo to not cuff their hands so that it is exactly the same building and the same look, but to have some continuity. The brick that we are proposing along the bottom is going to be very similar, if not the same brick, as what they have in the other. The treatment above the brick to the eaves is an effus a drivet product, that is going to be the same thing. The roof shingles, the architectural roof shingle will probably be the same roof shingles but you have some different detail, a little bit different in the roof lines, that gives this building some character.

Ed Meehan: That is what I was trying to get at, because we did talk about it at one of our staff meetings.

Milton Lewis Howard: And we certainly want to accentuate that New England look. We kept the pitch at a 6:12 and a lot of the New England is a 8:12 and whatnot, but we had the budget to look at also, so this is a compromise, and I think what we are looking at here, if we were to say the driving path, this is what you would see, but if you are across the street, a distance, the scale of the roof will come, you will see the incline. It looks like it's a plane now, but as you get away from the building, you will see it in actuality you will see the incline and you will pick up the proportions and the scale.

Chairman Hall: Any questions from the Commissioner? How high are the ceilings inside the building?

Milton Lewis Howard: They vary, they vary from eight feet in the toilet areas and some storage areas and we have nine feet and we have ten feet, and then, in the dining room, that is going to be a very high pitched roof, and I would say the peak of the roof in the dining area will be close to eighteen feet.

Ed Meehan: Is that a vaulted ceiling in there?

Milton Lewis Howard: Yes, and we will have chandeliers coming down, because that is going to be a very formal space.

Chairman Hall: Also, you did mention that most, I think you said all of your clients were going to be transported by vans.

Alan Bongiovanni: Yes.

Chairman Hall: Would they be able to drive if they were able, or not. Is everyone going to be required to be picked up?

Dr. Rinai: I would anticipate, just based on the demographics, that probably twenty percent or so will come, probably not themselves, if they can drive themselves they probably would be going to

the senior center, rather than going to me, but if a family member might want to drop some people off, I would anticipate that about eighty percent of the people would be transported by us.

Chairman Hall: On the vans, so you don't need any more parking for clients.

Dr. Rinai: No, I don't anticipate needing any day time parking for clients. I would be very surprised. I mean, they could be dropped off by a family member, well, maybe one for a family member if they wanted to come in and talk to somebody, but that is visitor parking. I would expect somebody to drop them off and leave.

Chairman Hall: Any other questions from anyone?

Ed Meehan: We're waiting on Conservation Commission?

Alan Bongiovanni: Waiting on the Conservation Commission. There were really two minor comments, the wetland area, the detention basin, concern by one of the Commissioners if there was invasive species, would we take care of them, we agreed to do that and we have our biologist looking at that for the next meeting, and then part of the sewer pipe that we proposed to abandon that, would remove it when we relocate the sewer to the rear building, and we agreed to do that, so I anticipate success at their upcoming meeting.

Ed Meehan: We talked about a little grading versus a retaining wall.

Alan Bongiovanni: Yes, Mr. Meehan's suggestion, we showed, because we have to create a relatively flat area, along the property line and we don't have a great area to grade, we had originally proposed about a two foot high retaining wall to make the grade, after the Town Engineer and the Town Planner looked at it, they suggested that we had ample room to grade it, so we would be removing that from the plan.

Chairman Hall: Okay, sounds good. Thank you very much for your presentation.

C. PETITION 13-08 – 119 Liberty Street, Kevin Kingston applicant, 1275 Cromwell Avenue, #35 Rocky Hill CT 06067 Kingsford Realty, owner represented by Alan Bongiovanni Lane Surveyor, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification reuse of 5,000 sq. ft. building, I Industrial District.

Alan Bongiovanni: Good evening, again for the record, my name is Alan Bongiovanni, I'm representing Kevin Kingston and King Air Conditioning in this application for property known as 119 Styles Avenue. It's about seven tenths of an acre, just over 30,000 square feet, in the I Industrial Zone. This is the western most part of Liberty Street, the block to the north, right along the railroad tracks. It's an existing building. A few years back, in 2002 an applicant came before you, you and the Conservation Commission, Beola Brothers Landscaping and had a site plan approved. One of the conditions of approval that a bond had to be posted prior to the Chairman signing this, the bond Ed, I don't believe was ever posted, and the Chairman didn't sign it, and they never did the work. They basically, somewhat basically operated as a kind of a junk yard. It was a landscaping business that had no regard for the property or the neighbors. Mr. Kingston has since purchased the property and is proposing to change the use, that is why we are back before you today. This first order of business is to clean up the site, they have been working on that, they actually have building permits in hand and are doing work on the property, retrofitting, upgrading, repairing to make it habitable for their business. We are here tonight to basically ask you to implement a portion of what was originally approved and that is the two parking areas in the front, the landscaped island, and then clean up the rest of the yard, seed, grade, so that it becomes a lawn and it's easily maintainable. Some of the improvements, the drainage

improvements were done by the Beola Brothers, and those are shown on the plan, we're just going to make the parking area work for those structures that are there. There is a proposal to grade an easement to the Town for snow plow trucks, to turn around, but it's a simple application. There is more than enough parking, they have, their largest shift is six employees. We have proposed ten parking spaces, so they have room to grow. It is a relatively small building so it's not going to accommodate a huge company, but for their plans this is more than adequate for the foreseeable future. It's a way to get a really blighted property back into a reasonable use. You've got a company that has purchased the property and is willing to do the right thing to make it usable for their needs. It is appropriate and allowable in the zone, and we ask for your quickest action possible on this. Thank you.

Ed Meehan: Tony Ferraro, the town engineer, wetlands officer is looking at this. Has the oil/water separator been installed?

Alan Bongiovanni: Yes, the oil/water and the storm drainage have been installed.

Ed Meehan: He wants to make sure that they are installed correctly. We saw them in the ground, are they working is the question, and, any outside storage?

Alan Bongiovanni: There is no outside storage proposed, even their own, they have a couple of vehicles, that they fabricate duct work and install with, are parked inside. There aren't vehicles left on the property overnight. You know, this was used for landscape storage and bulk material storage, that all has either been mostly cleaned up, or has been completed, I haven't seen it in the last week or two, but the idea is to clean it up, plant grass, and cut the grass like any good neighbor would do.

Ed Meehan: This site is headed in the right direction, we did have problems with the prior owner, both Conservation and the Zoning Officer were down there several times so, that's, I mean, with input from the Town Engineer, I would be ready to help the Commission move this along.

Chairman Hall: Any questions from the Commissioners? I have to admit it's a big difference from what it was, it looked like the moon at one point, big chunks of rock and whatever and they have considerably cleaned it up at this point, so, moving in the right direction. Any comments, questions? All right then, thank you.

VII OLD BUSINESS

Chairman Hall: We are going to start with 58-07 and 51-07, we are going to put those together.

Commissioner Pane: We're not talking about 56-07?

Chairman Hall: We'll go back to that.

- C. **PETITION 58-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for site plan approval for development of 1,800 sq. ft. restaurant and 5,300 sq. ft. bank, PD District (Proposed.) Sixty-five day decision period ends April 18, 2008.**

D. PETITION 61-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for site plan approval for development of 124 room hotel, PD District. (Proposed.) Sixty-five day decision period ends April 18, 2008.

Chairman Hall: Thank you for that. The reason that I had this done this way is that they are going to give us a little bit more information that is going to help us with our decision.

Attorney Jacobs: Good evening, Attorney Leonard Jacobs, you are correct. We have four items on the agenda, but two of them are public hearings that are closed, so we're going to talk tonight about the third and the fourth item. We know that you are not going to be deciding our applications tonight and so we are just really here to make a few remarks to add a little bit to the presentations that we had made. On the second of the two applications that you read, the hotel application, we simply want to say to you that we know that there are changes that you want to incorporate into what we hope will be an approval of the hotel and we encourage you to make the changes that you feel are appropriate, that you think will enhance the project, and based on the discussions that we heard, when we were here and the minutes that we read, the comments seem appropriate to us, and so we're simply going to say, on the hotel, to make those changes that you think are appropriate and that would be fine.

What we want to talk about for a few minutes is the, well essentially the two applications, because there is a point that we want to make to you, and we may have made it, or tried to make it, along the way, but I'm not sure that we made it adequately, and I know that there is going to be a meeting with the State of Connecticut in the next couple of days, and the point that I wanted to make to you was really in two parts. I want to make sure that it is clear to everyone that the choice to design the project and to involve the State of Connecticut was made by the applicant. Now it could be when we started the project that we could have ignored the fact that we thought that Fenn Road could be handled better by the involvement of the State of Connecticut which certainly would have made our life a lot easier, but Rich Hayes, when we presented the application, made the decision that he felt that there was a better way to do the project that did involve bringing the State of Connecticut into it, and that was a choice that we made, so we were the ones who did in fact involve the State of Connecticut. We were the ones I think who initially involved the Town of Newington, we invited Ed to all of the meetings that we went to with the State of Connecticut to make sure that the Town was informed every step of the way, that we went along. That decision that we made has caused us to design and re-design the project perhaps two or three times, at our expense, but it was a decision that the applicant made in the hopes that the State of Connecticut would see the wisdom of the approach that we were suggesting to them, and with the hope that they would respond in some reasonable manner and we're aware that up to this point, the State of Connecticut has not responded, in any manner, reasonable or otherwise. A major disappointment to us, but at the end of the day, from our perspective it's important for you to remember that our project as proposed, does in fact have right turn access out onto Fenn Road where appropriate, we do have a left turn out by an easement through the Stop and Shop Shopping Center and our site will in fact function properly regardless of what the State of Connecticut tries to do, or refuses to do I guess I should say. We hope that they will come to their senses, so the other point that we wanted to make to you, because I don't think we have made it clearly, or may not have made it clearly and I want Pat O'Leary our engineer to review this with you is that the design that we are presenting to you is the design that will work if the State of Connecticut comes along as we hope they will, or will work if the State of Connecticut does not come along, but we do want you to understand that if in fact when the decision time comes you approve our application, this application is consistent with what Ed and Rich Hayes have tried to get the Town of Newington to do. So I wanted Pat to go over that with you, show you that we were anticipating and designed everything in a way that will allow the State of Connecticut to say yes to what we are proposing, if in fact they don't do that,

then we will ask you to approve our application because it does, as I say, on its merits stand, justify an approval because we are fortunate enough to have an ability to have our site have a left turn out at a light if it comes to that. So, Pat would you just take a few minutes and explain that to the Commission.

Patrick O'Leary: Good evening, my name is Patrick O'Leary, here before you a few nights regarding this application, and hopefully can provide some clarity. Madam Chair, with your permission, I'd like to approach and have a few handouts for the Commission members which I think will help. What we have, the very first handout that is coming down has no border, has no title block, that was the original site plan demonstrating the layout of the site, and was originally conceived and originally designed on behalf of the applicant. As you can see in that plan, the hotel is essentially in the same spot, but the retail and the Starbucks, bank position are completely reconfigured. The reason that the original layout existed as such is because the traffic signal is proposed over here, by the proposed access road that was going to lead into the bus station on the back side. In looking at the plan, the original site plan, looking at sight distances, having reviewed the traffic studies that have previously been prepared by Fuss and O'Neil, Wilbur Smith, and talking with DOT we realized, and we were aware that there was a conflict with the signal down here by Stop and Shop. A signal up here would be too close. In discussing this with Mr. Hayes and the traffic engineers, we came to the conclusion that it would be possible to provide an alternative to the site plan originally proposed which would provide better access, both to the busway and possibly for future development of National Welding, and that is where the second plan with the title block comes in. We've played around, and if you look, you will see there's about six hundred feet separating the signal at Cedar and Fenn and six hundred feet down to the signal here, by relocating the access for the busway, from the proposed access point, over to the center of the site here. We are showing on the plan with the title blocks on it the proposed access way that would service both the busway and National Welding. If you look at it, we are showing a four lane configuration. For the development that is proposed here today, that four lane configuration isn't necessary in this portion right here because it doesn't have the busway traffic incorporated, nor would it have the traffic from National Welding, so we are just showing two way traffic here as opposed to the boulevard. Additionally, in reconfiguring the site, as shown here, it's very easy to re-accommodate the change. If you look at the plan that I have in front of you, it shows the road curving over here to serve as National Welding as well as the busway. With the existing space, we cannot accommodate that, but assuming the busway access is changed from here to here, and allows the detention basin to be expanded as you can see on that plan, over into the proposed access way, this would shorten up, so this road could be changed from directly down through here, service both National Welding and the busway. So we have been through a number of site design iterations in the location of the drive aisle as it exists here today, is consistent with providing the best separation distances for a proposed signal at this site. In addition, it would make sense because it would provide a potential and opportunity to incorporate the National Welding site with a direct access out to a signalized intersection. Redesigning the site to accommodate the potential busway, National Welding connectivity through this site here made for other site plan changes. When we talk about interconnectivity between potentially this site, the busway, National Welding, and the adjacent site over here, in order to bring a roadway in from this point, be able to get it through the site, and dive it down to meet the existing grades which works better, working with the constraints over here, at the higher point over here on Fenn Road and trying to get the site to dive down to match the grades over here in the vicinity of National Welding, and the busway forces us to raise this portion of the site. If you look on the site plan, across this area right here, is a retaining wall, approximately four foot retaining wall on the site plan that has been submitted. It's necessary to have this grade differential between the two sites in order to catch the grade here and come as close as possible to matching down here. There is a large drop as you come down through here. We need to maintain ADA accessibility, and proper design constraints coming across the site in this area. In order to even potentially match any type of grades going back and forth across these sites, would

require an eighty foot swath of land, assuming five percent, six percent alignment, so the grading back here would have to change for an eighty foot section which would no longer work from an ADA compliance standpoint, or circulation standpoint, or it would require re-grading into this site, some eighty feet which would put us through the intersection. On this side of the site, from a connectivity standpoint, we still have the existing access way going down to National Welding which is going to have to be maintained for some time into the future, and there is a tremendous amount of congestion in here now with the access point coming down into here, as well is the free flowing traffic flowing through the site, so cross connectivity in this location simply doesn't make any sense, it only adds to the congestion. This is driven, in its entirety from a site design standpoint by providing the access way that is ultimately connect down here to National Welding and the busway. We do have sight constraints on the site, unfortunately we're not in Iowa where we can just take down some corn from some flat fields, and there is not a great deal of maneuverability around here because of the slopes that are going to be coming down here. If you look on the plan, we have reserved area, recognizing there may have to be right of way work over there, so we have reserved that area and it really constrains us from a property line and topography standpoint to limit us to the design as it exists here today. We have been through two rounds of analysis with the DOT at this point, first round based on the Fuss & O'Neil report, the first meeting that we had over there which I believe you were in attendance, which was followed by comments coming back requesting additional analysis which the developer authorized us to do and has provided to DOT and there is potentially another set of comments coming back from the DOT regarding the site, requesting additional analysis, and the analysis just seem to keep piling up. But I think the bottom line and result of the analysis does demonstrate that this is a more viable location for access not only to the site but also for the busway as well as National Welding. Hopefully that brings some clarity as to how the access point has been located here, and changed from the original alignment in the original design plans where the access point was coming through here into the site. Questions regarding alignments or otherwise?

Ed Meehan: I think it is important for the Commission members to try to understand that the applicant and the town may not get a decision from ConnDot for some time. We are trying to move forward with a conversation, starting Friday but that could probably go from the people in the front office down to the traffic engineers who really do the designing on this, so as the clock ticks on this, and the town is under the obligation to give the applicant a decision, what I hope we all feel comfortable with and I think that is what Mr. O'Leary is trying to explain, if this plan is acted on, with the right in and the right out and the traffic going through Stop and Shop, if in due time ConnDot comes back and says yes they will buy into the concept of a traffic signal on Fenn Road, they will swap land with the developer to close that seventy foot strip on the north end and combine it with the site access drive to the busway and National Welding through the middle of the site, what my understanding is, and I think this is part of what the gentleman wanted to get across to the Commission, with minor modifications to moving the detention basin and the associated piping that goes with that, that that center drive can accommodate a future traffic signal on Fenn Road. I believe that is the impression that you want to leave, is that right.

Attorney Jacobs: Yes, that is exactly what we are trying to say. I don't ask who said it better, but.....

Ed Meehan: Because that is important because the way that the original site plan was configured, it raised a lot of issues from an engineering and planning point of view because it didn't provide any left turns out obviously, other than going through Stop and Shop but it also causes a lot of problems on Fenn Road when you have two site drives, one for the busway, one for a service drive into Stop and Shop within two hundred feet of an existing traffic signal. I think that area of congestion is eliminated by a center boulevard, I'll call it, with a traffic signal. That's one of the issues that came up as a red flag at staff level. The other issue is the modified plan, in my opinion results in a lot more green space, less impervious surface, and a better internal traffic

flow, which is important and the other, longer range opportunity here is again, looking out for the interest of the Town is what may happen with the four acre National Welding site, and the opportunity to reclaim that, to partner with the private sector and develop it, is going to be most marketable if we can offer not only a clean site, but good access, so what I'm hoping in this master plan is the Town gets a chance to ride on the coat tails of the busway and Hayes Kaufman to offer that. If not, we're going to be sitting on a four acre site with a contaminated building that no one is going to want. We did have a meeting this afternoon with ConnDot's bridge people regarding Cedar Street, the widening of the bridge over the busway. ConnDot as you know they work very specifically on a project by project basis, they have Federal funds. This bridge comes up on their list, scores very high for problems that needs repair and they want to do those repairs in concert with the busway, but because of the Federal funding they tell us that they cannot look at the wider picture, maybe making the bridge deck wider to accommodate future left turn lanes, or to accommodate the issue of flattening the grade at this point so we do not have a hump, a vertical grade on Cedar Street, and they were very clear with that, and I have to say, the Manager, the Mayor, myself expressed some frustration that maybe in 2010 they are going to rebuild this bridge and maybe in 2015, 2018, someone is going to take it apart because they realize they need a wider deck on Cedar Street. Because of their funding constraints, that is the way that they are going to design this. We left it that we want to have that conversation with the decision makers on Friday, I think Mayor Wright was clear that he understood the limitations of the design team, but because of the activity around this corner, we really want them to look long range and they may not be able to do it with the funding that they have. I think the project that is being presented to you, has some flexibility in it that could fit into a longer range template with the traffic signal on Fenn Road, so that's pretty much how I see it.

Commissioner Pane: Madam Chairman, through you, could you have the Town Planner speak to us about the movement of the exiting onto Cedar Street and heading north and crossing four lanes of traffic and, if he feels that that is still safe after not allowing that for the applicant for the gas station some years ago.

Ed Meehan: This is the right out, the right out going west?

Commissioner Pane: It would be the exiting, it looks like exiting that they can go either right or left onto Cedar Street.

Ed Meehan: I don't think the department is going to give them a left out, but, it's right in and right out.

Patrick O'Leary: This is the site plan under consideration, here and....

Commissioner Pane: I'm talking about Cedar Street.

Patrick O'Leary: It's only for right out. This is for lefts coming in because you have to have this movement, it has to be maintained for any vehicles getting down here to National Welding.

Commissioner Kornichuk: Left in?

Patrick O'Leary: It has to provide a left in to get down, there's no way....

Commissioner Kornichuk: Never going to happen.

Attorney Jacobs: It's your property, if you don't want the left in, we can remove it.

Patrick O'Leary: Yeah, there's no other way if you think about vehicles entering, coming down Cedar Street, here and you have a truck making 180 degree turn to get around there,

Ed Meehan: We spoke to that issue this afternoon, that's again why this center arrangement with a traffic signal for the busway and National Welding is so important, because from a traffic safety point of view, and from the geometry of getting vehicles down that driveway which is now a fairly steep grade, to the grade of National Welding, is not safe and it is not practical. If the abutments were to be widened, I mean, they don't know what the right of way requirements are yet for the bridge job, that could even compromise this driveway further, so to answer your question, it's got to be a right in and a right out. A left in, the cars that take a left now, they go to Bob's.

Chairman Hall: Right, or the gas station.

Ed Meehan: Well, the gas station, they're not supposed to, it's supposed to be skewed, but they do it. There's a lot of things that they aren't supposed to do, but there is no prohibition on a left into Bob's right now and it's not safe, so I would hope that, again, this is not going to be our call, it's going to be the Department of Transportation, that they would see that problem here and again would realize that maybe part of the solution of this problem is working with the Town and the applicant on Fenn Road. But it's not our road, so we can't.....

Commissioner Pane: I think it is our problem, we've made suggestions and we've denied things before yet they are not presented to us in a safe manner, bring us back to the point of Prospect Street, so this Commission does have a big influence on whether or not something is going to get approved or not approved based on the safety of the traffic, whether it's a state road or a private road.

Ed Meehan: Well, you can deny the site plan based on the internal operation of the site plan, and the driveway access onto the abutting street, I'm not sure that the analogy holds that this site is comparable to Prospect Street. The analogy might be that when the gas station project was before the town planning and zoning commission, the issue of a right out of that gas station was, I don't know if it was in the motion, but it was discouraged because of the concern of being so close to the traffic signal that the feeling was that a right out, someone who might move over a couple lanes would be a traffic hazard, and that didn't have to go through STC, it had to go through just the district to get permitted, so that is why it is only limited to a right turn in. Mr. Davino since that has happened has asked a couple times of also permitting a right turn out, the feeling being, and ConnDot has not brought this back to you, that is there was a right out onto Cedar Street some of the illegal lefts onto Fenn that wanted to go over to Cedar and Route 9, would come out at the traffic signal, so it hasn't been the issue of the left, it's been the issue of the rights out into moving traffic. That's all I can say about that.

Commissioner Pane: Madam Chairman, I just want to make it clear, I'm all for development as long as it is done in a safe manner and I think that this Commission as a body is a little bit more familiar with the local traffic in certain circumstances and so we need to express, to make sure that the safety is taken care of. Thank you, Madam Chairman.

Ed Meehan: I think that's important, I think that's a good point and it's important and it's another discussion that the town needs to have about this entrance onto Cedar Street, why it should probably be only right in and right out and if that's going to happen, we don't want to create our, we don't want to landlock ourselves because we're the beneficiaries of that access.

Attorney Jacobs: Can I just make a comment? I think it's important that you remember that we only want right turn in, right turn out. If you want to block that left turn in because you think that is unsafe, block it, it's fine with us, but we don't want to be penalized for a left turn in that doesn't

benefit our property, only benefits your property. Our right turn in, right turn out is safe, we've given you traffic information that shows that and you know, you have some problems of your own there, which we have tried to accommodate through this center driveway as Ed as indicated, but that decision on the left turn in, Bob's is gone, that decision on the left turn in, is only to benefit access to your building. It's of no interest to us, so close that off if you feel that is unsafe.

Commissioner Pane: Madam Chairman, through you to the Town Planner, in the future for the National Welding property, I would assume that you are going to be getting possible easements to enter it through a better method that they are proposing here. Now if you end up using their alternative method you won't even need this other entrance and exit over here on this side.

Ed Meehan: That's right.

Commissioner Pane: On Cedar Street.

Ed Meehan: Right.

Commissioner Pane: You won't even need that, so as long as this development is granting easement, a future easement to the National Welding site, we can make adjustments over there and you won't be hindering the property down on National Welding.

Attorney Jacobs: Except that, we are only offering the easement to the National Welding site if the State of Connecticut comes on board and puts the light at that intersection, because if the State of Connecticut doesn't put that light at that intersection, we don't want traffic coming down that route to a place where there is no light. This is why it's all intertwined with the State of Connecticut's cooperation.....

Richard Hayes: And alternatively Mr. Meehan has already negotiated access to National Welding through this seventy foot strip that the State of Connecticut currently owns, that will take you over to this building through their parking lot. That's not the most desirable access, the unfortunate thing is, before we bought this property, we came to all of the outreach meetings that the Department of Transportation did as it relates to the busway. We made decisions based on that information that was presented to us at that time. The difficulty is today that Department of Transportation has what we call a case of convenient memory. And that is the problem, because they show, Greenburg, Ferrell, and I have a copy of their report that identifies this as a location with providing access to both this parcel and the Stop and Shop parcel as well as their busway parcel, with a signal here, and they stood in front of people in this community as well as myself who was in attendance at that meeting, several times, and the Planner will attest to this, telling people that that was a signalized intersection and they were not under the purview of the STC. So today, you have the busway in one place, the meeting that we went to on January 11th with Ed Meehan, there were twenty-four people in attendance at the meeting. You had the rights of way people, you had the STC, you had the busway, you had the planning people, and you had the engineers for the STC, so you had five different entities. Not one of them can get along with the other, and that's the problem and now I'm being held hostage because of that. That isn't how the game works. I came up with, VHB came up with a very good solution here which we all supported, our whole development team, to split the difference between the signals in order to accommodate this. There were certain people at the STC who agreed with it, there were others that had reservations. We went, they made one representation to us on the 11th of January telling us that if we did a certain amount of work, they would get back to us within two weeks with an answer. We did that work, we provided it to them. Cost me thousands and thousands and thousands of dollars. The next thing I know, they come back with a list of comments, I looked at them, I talked to Mr. O'Leary, I said to him, how much is it going to cost, we made a conscious decision to answer their comments. We sent them all back in, the next thing I know, two more

weeks go by, or three weeks go by and we get a letter asking us to do what would be considered a full scale STC review plus on this piece of property, and that's when I said, no more. We're not doing this. This piece of property does not require a STC permit today, the way that it is in front of you, as it is presented today. It requires an amendment to the STC permit for the Stop and Shop but it does not require an STC permit for this. It does not have two hundred cars parking, therefore it does not require an STC permit. We presented to them at the time, and the reason that our right out works, and we all looked at this very closely, and the right out at the gas station doesn't work, is if you look at the lane configuration, when you pull out, when you take a right out of the gas station, you are automatically in the right hand turn lane only for, to head down Fenn Road, to head north. When you pull out of this piece of property, you are in the middle lane, you can make three decisions, you can go straight, you can take a right, or you can go straight and get into the lane to get up on Route 9, headed in a southerly direction. The reality of it is, this works fine, we said to the STC, well, what about the left hand turns coming in, we said, you know what, we'll just put our curb cut here that services us, and if you want us to leave, because this curb cut today existing is eight-seven feet wide, if you want us to leave the other curb cut just to service this piece, we're happy to do that, but that is a decision that you have to make. You want to do it on a temporary basis, or a permanent basis, makes no difference to us, the movement is existing today and we're not adding to it, that's for sure. So, we believe, the plan that you have in front of you is the best plan out there, however, we can't make any representations as to whether we can achieve it or not, until the STC, until the State of Connecticut makes a decision as to what they are going to do. That's unfortunately the reality, this application has been in front of this Commission since November, it's now April, and I need a decision, because I have been more than patient here and I have been more than fair with, not only my offers, but as well as you know, the time that we spent on this.

Attorney Jacobs: One other thing that we should remind you, to widen this requires us to move the detention basin, to move the detention basin is in the piece of property that the State of Connecticut owns. They really have the whole thing under their thumb and they're not treating the Town with any respect, forget us, but they aren't treating you with any respect.

Richard Hayes: They are doing a disservice to the taxpayers of the State of Connecticut, to the people of Newington, to myself, and numerous other folks, I mean, the reality of it is, this makes everything work better and because I'm willing to give them the land up here currently, and give them the access through here for no consideration, where they would be condemning it otherwise, you know what, that's tax payers money, and it's not fair for them to just arbitrarily not look at this thing, and to drag their feet, but as the Governor said, it's broken, you know what, it really is broken, folks.

Commissioner Pane: Madam Chairman, I know this is very frustrating, we are only trying to do the best thing.

Richard Hayes: We are all trying to do the best thing.

Commissioner Pane: I have a couple of questions for you. The distance between your Stop and Shop extra entrance way here, where the State picked up the right of way, to the light at the Stop and Shop, what is that distance, approximately.

Ed Meehan: It's less than 250 feet.

Commissioner Pane: So they felt that that was not enough of.....

Richard Hayes: Well they were going to close this entrance, they were going to close the truck entrance only that runs into Stop and Shop and move it over here. So, they were going to gain,

say, sixty or seventy feet, so the distance between here and here would be three hundred feet. And they were then going to give us access, there were two access, one that accessed both places here, and then one additional access that would access the rear of the Stop and Shop, so there are three access points, two directly across from one another at this location, and one back here at the back of the building for the trucks.

Attorney Jacobs: I think the required distance is 500 feet.

Richard Hayes: It is. But that doesn't mean, we all know that the required distance is 500 feet but there are many instances where signals are closer than 500 feet.

Attorney Jacobs: But this one would be very close.

Commissioner Pane: Now the State bought the right of way?

Richard Hayes: They condemned the whole piece. They condemned this, three and a half acres, the configuration is right here. It's seventy feet of frontage to make it a legal lot, in the industrial zone in the Town of Newington. So they took the seventy feet of frontage, they came down and they took the three and a half acres down here, and it's been condemned. They took fee to it last May.

Attorney Jacobs: But interestingly, although they condemned that strip of land, they left us with an easement to cross that strip of land, and that's why, even though the State owns that, we can cross from one piece to the other.

Commissioner Pane: Now, if they don't use that easement that they condemned, what are they going to do? Are they going to condemn something else of yours?

Richard Hayes: We were proposing to take their seventy, and give them seventy. That's what we were proposing. Now whether we did it in fee, easement, there was a lot of discussion through the rights of way people down there. I don't care, whatever they want to do. Just make the right decision here, whatever they want to do, just make the right decision.

Commissioner Pane: So a light where you are proposing would work for you, or a light where they propose would work for you too.

Richard Hayes: That's correct.

Commissioner Pane: As long as, I think we are all in agreement, as long as there is a traffic light at one of those two locations.

Attorney Jacobs: That's exactly right, we could have lived with either.

Richard Hayes: But the STC will submit to you that this signal here no longer works, now it worked when they went through and Greenburg and Farrell stood in front of the Town of Newington and went through all those busway iterations, brought it to the Town Council to the Planning and Zoning Commission, to everybody, the signal worked here. Lo and behold I purchase the property, two years go by, I purchase the property and now all of a sudden nobody can remember when the signal worked out there. But they have drawings, and by the way, I have one of them, that shows the signal that was out here, position with access provided to both parcels, not the third piece, but for these two this way, and now they claim that it won't work.

Ed Meehan: I think that was a revelation to the busway people also who always thought that they were going to have access to Fenn Road, well, Mike and Tom were on the study committee....

Commissioner Ganley: I have their drawing right here. It's 340 feet between the two lights, and they said it works, provided a signalized intersection.

Richard Hayes: The problem is they never went to the STC and asked them whether it works.

Attorney Jacobs: See, the bus people would support what we have put on the table today, the bus people I think would absolutely support. It's the State Traffic Commission that suddenly came to the meeting and said, this won't work and won't seem to cooperate on any other decision either.

Richard Hayes: The bus people will support a signal here, and they believe that they could put one here, at one point in time. And they very well may have, we thought they could and then we did some analysis and we're not so sure it would work, right Patrick?

Patrick O'Leary: It's not optimal.

Ed Meehan: There is no storage between the lights.

Richard Hayes: This is a better solution, no question. It gives you 680 feet here, 587 to here, you know, it splits the difference.

Commissioner Pane: Are they worried about the queuing from your proposed one to the intersection?

Richard Hayes: Correct, they are worried about queuing in both directions.

Commissioner Pane: Can it be moved this way at all?

Richard Hayes: This way?

Commissioner Pane: Yeah, a little bit farther so.....

Richard Hayes: So here is the plan, it's 682 to the light here, and it's 589 here, so could you go, split the difference and get another forty feet out of it, fifty feet, maybe, but that may goof up what I'm planning to do here.

Commissioner Pane: But you would gain that seventy feet back over here.

Commissioner Kornichuk: But this is already incorporated into the seventy feet, right?

Richard Hayes: No, we had to go through several iterations of this. We have a plan that shows the seventy feet incorporated, and actually this is the seventy feet, we have another one as a way fall back, but it shortens up this building to a point where I'm not comfortable any more.

Ed Meehan: The other part of this, and it's not the developer's responsibility to handle this I don't think, remember there was the Fuss and O'Neil study, the five to ten year short range improvements and the long range, twenty, twenty-five year improvements. There is a package of short range improvements, intersection design improvements, ramp improvements, some right turn improvements, that help the capacity in here a little bit, to get that queue shorter.

Richard Hayes: We incorporated those, Ed into our first study for the STC, as they requested us to, and that's when you gave us the information about what you thought might still happen here, we took it all, blended it together and sent it to them. Then they wanted a consolidated analysis, without this, what did they want Pat?

Patrick O'Leary: Without that, just with the site to see how it operates, what only you do, just on your site prior.....

Attorney Jacobs: Existing conditions today without anybody else in consideration.

Ed Meehan: That Fuss & O'Neil study, it was a planning, build or not build type of scenario, and they show, based on zoning and land use, how do you maximize these sites out, how many trips are you going to generate, that was all worked into these ramp designs. But there was a disconnect between that study, the local advisory committee and CCROG and the traffic engineers at ConnDot because it didn't get to them. They're in different silos, as they say down there.

Attorney Jacobs: If you were at the meeting that we were at, and you saw these people each in their own little groups, sitting at the table, not really talking to each other, didn't know really what each other was doing, it was, if you were a citizen sitting there, it was an eye-opener. It was astounding.

Ed Meehan: But to the point of the town's responsibility to make sure these roads are safe, I think this issue with Cedar Street and the fact that the Town may someday own National Welding, may be our real estate to develop, I think it behooves the town to say, we want a signal that works for the busway and for National Welding and solves the left turn lanes on Fenn Road and eliminates the left turn lanes on Cedar Street.

Chairman Hall: And this does it, doesn't it?

Ed Meehan: It does it, if we get the signal.

Richard Hayes: They had the audacity in the meeting with Ed, and us, to tell us that, when they forgot about the signal and then suddenly they decided maybe they could make a left hand turn coming into this project with buses that would accommodate sixty, seventy people, whatever the size buses are, and they could make this movement without any problem, and come out and take a left out of here without any problem without a signal, and they said it with a straight face, and I nearly fainted.

Commissioner Pane: One more question, maybe your expert can answer this, you have a 589 feet, is that common for an intersection of that capacity, 589, is that a common, or is it usually a little more or you know, are there intersections with 589, with that capacity level.

Patrick O'Leary: Yeah, there are and in fact sometimes you will find intersections with a little bit less. Part of what is going to happen here, there is an optimum band width here, that gives you the absolute perfect location of this, and it's going to be dependent upon what happens back here for National Welding, and ultimately what happens with the traffic for the busway. We have a seventy foot width here, and so, between the sight distances and the actual land configuration there is going to be some optimum location in here for putting that signal. It could be twenty feet over this way, it could be ten feet over that way. It's going to give you the optimum queue lanes to maximize it's potential.

Commissioner Pane: And the timing of it is very important as far as when that light is going to turn because, it's extremely important so the backup doesn't happen. Correct?

Richard Hayes: They all have to be synchronized.

Commissioner Pane: Now did you have a proposed level of service at the proposed intersection?

Richard Hayes: With or without the signal?

Commissioner Pane: With the signal.

Patrick O'Leary: We did it, for some reason I think it was B or C.

Richard Hayes: You don't have it because we didn't submit it, we could give it to you.

Commissioner Pane: No, just looking at this whole thing, I mean, where they took your, where they condemned the property, over here, you know, if somebody looked at that property and wasn't even an expert, you would have to come to the conclusion that where they condemned the property over there wasn't the optimum area for the bus, so I don't understand why they proposed it there and I don't know why they condemned the property there. I like your entrance, with a light, where you are proposing it, plus or minus twenty feet, thirty feet to get the optimum light there, provided we can clean up the Cedar Street area and provided we get an easement to the National Welding area.....

Richard Hayes: You won't need an easement, it will fall right, it falls half and half, but it lands on the bottom.

Commissioner Pane: Well, if we don't need an easement, we don't need, but as long as we can use that as access, I think this Commission, knowing the local traffic concerns, for Cedar and Fenn Road should demand that the light be placed in that area, because we are familiar with the local traffic and I think, if we approve this thing, we should in our approval, say that we would like the light going right there, at their proposed area, and make the other following corrections over here so that we can move this project along.

Richard Hayes: And I would love to be able to agree with you. Two things, I believe that the reason that they did this is because when they took this piece, nobody ever went to the STC and talked to them in advance about where to place the signal, and in fairness to them, they had no idea, they never thought of this, okay, the district traffic engineer thought of this, I'd love to be able to tell you that I was smart enough to think of it, but I wasn't so the reality is that they didn't know that this was available to them, so they took this, thinking that they had done enough studies to justify a signal here, and it may work, it may, but it ain't going to work perfect, that's for sure. This will work a lot better. The reality of it is, they never talked to the people at the STC and that is where this, that's where this started to happen, so we're in the middle of that. This is what is in front of you, today, this is what is in front of this Commission today. That doesn't mean that that plan won't come in front of you at some point in the future.

Chairman Hall: The first one?

Richard Hayes: The one with the signal. This is this one, without a signal. So there is no signal here and obviously the width of this would need to become, we know that we need two coming in and two going out, if we are to accommodate for all these people. So, this is all that you can approve, and I can never guarantee, I cannot stand in front of this Commission and will not stand in front of this Commission and guarantee that you are going to get a signal there. As much as

that is what I would like, and that is what I would like to believe is the reality, the fact of the matter is, that I don't have any control over it, and based on what my experience has been since January, I don't have a lot of confidence in what is transpiring down there. Does that mean that it can't come together? I guess with enough pressure from the right people anything can come together.

Commissioner Pane: Madam Chairman, I just think that it is important that this Commission come up with, you know, recommendations, because you know, we want the optimum plan, and I'm sure the developer wants the optimum plan, and as, knowing the local traffic there, I think we have a large input to the State. I still believe that we, as a Commission have a lot of input on what should be going on over there. Somehow we need to express to the state what this Commission feels is the safest area, and where we feel the light should go, and where some of the other improvements should go. Just want to get that on the record.

Commissioner Fox: Madam Chairman, continuing on Commissioner Pane's track, so to speak, I don't know how much input the Newington Town Plan and Zoning Commission has with the state, but we do have a very, very great interest and as Domenic says, I think we have a responsibility to make sure that our opinions and our views are expressed to the STC, maybe through a letter from the Commission, I don't know what good it would do.

Richard Hayes: Well, it wouldn't hurt, that's for sure. I'm happy to take the recommendations just as long as they don't come in the form of conditions, so if you want to make recommendations, that's fine, it's just that I can't afford you to condition it, I can't have you condition this plan. The reality of it is, if you want to write a letter to the state, STC, I'm in full support of it, I don't know, maybe it's better to go to the Commissioner of the Department of Transportation.

Chairman Hall: There isn't one there, I don't think, is there?

Richard Hayes: They have an interim Commissioner.

Attorney Jacobs: Ed's going to meet him on Friday.

Chairman Hall: I was going to say, what we might be able to do is at least take some kind of action this evening to empower you on Friday to say that this is what we have done, with a follow-up letter as well, because you are going to have a sit-down, hopefully, unless they cancel that for some crazy reason.

Commissioner Ganley: I think we should take this in two pieces, one is the site plan in and of itself, that either is or is not approved, so we have to do that, and the letter would have to be a sidebar because we couldn't put it in, we couldn't stipulate in the approval or the disapproval of the site plan.

Chairman Hall: I don't think that what our intention was.

Commissioner Ganley: It is definitely a sidebar letter, reiterating some of the discussions that we have had here to bolster the fact that we have discussed this pretty darn near ad nauseum about our feeling and I think we ought to let those folks know in a letter backed up by their examination of the minutes, if we think that is necessary, but I think procedurally I think we can just do the site plan, either approve or disapprove the site plan, and that letter has to be a sidebar, and it can't be, I don't even think we can stipulate in the approval reference to the letter because it's a sidebar.

Chairman Hall: Right, we wouldn't tie the two together.

Ed Meehan: Well, what I was going to do for Friday was to prepare for the Mayor and the Manager talking points, you hit on a couple of them already with the location of the traffic signal equal distance on Fenn, access to the busway, the issue with the left in and out on Cedar, they go together, and the town's access to National Welding, which is all predicated on the fact that ConnDot is going to agree to a land swap, the idea of moving over the entries.

Commissioner Pane: What time is the meeting?

Ed Meehan: I think it's 1:30. At the DOT, Commissioner's office. So, I will have those things listed and then I think it is appropriate to do it, as Tom said, as sidebar letter, apart from any motion, because you only can act on what you've got here. Up, down, or in the middle. You can't put all of those things in a motion because all of them are beyond any developer's ability to deliver, they don't control the STC. The internal layout is within the Town Planning and Zoning to look at, where the parking is, where the intersections occur inside the site, but those are, in my opinion, pretty well laid out. You have sort of like a master plan here with a future site in the northwest corner, that is going to be served by utilities, roads, and drainage and the drains are being sized for that, so there is a logical sequence that is going on here.

Commissioner Pruet: Will the STC be at this meeting on Friday?

Ed Meehan: I don't know who all the players are.

Commissioner Pruet: Well, can a phone call be made to request that they, because of the importance of this whole site, that they recommend that they be in attendance?

Ed Meehan: Well, my experience has been that you don't want to go too deep into the STC. You want maybe the director and acting Commissioner and the division directors, but if you go down below that, you get.....

Commissioner Ganley: And they are going to kick it up anyway, they're not going to make that decision. They have meetings to decide to have meetings.

Ed Meehan: Yeah, it's not fair to bad mouth them, because they have very good professionals, but they've got to start talking to each other. The letter, if this is a classic site of busway, transit orientated development traffic improvements, it's a case study and they came to the Town with the busway, they asked the town to participate in the CCROG study, working with \$200,000.00 EPA grant to clean the site up, so we want to put the pieces together. This is part of the puzzle. I think the Manager said that at the first meeting, this is part of the mosaic was his term, and then they shattered it after that. I think it is better to stay at the higher level.

Commissioner Pane: Also, if the widening of the bridges comes up, you know, this Commission in the past and the residents of the Town of Newington, never really wanted to see Cedar Street widened. I don't think they want to see it widened. I think they want to see alternative methods on removing some traffic on Cedar Street, but I know for a fact I would bet on, that most of the residents are not going to want to see Cedar Street widened and the two bridges widened to accommodate four lanes up and down. That's not, what the Town of Newington, I don't think wants.

Commissioner Fox: Madam Chairman, there was an uproar when they changed it the last time.

Ed Meehan: Well I know the widening from the Town Center out to Maple Hill you know, that is really a taboo, when you get into that intersection, you know, the first bridge back, you probably are going to need some widening for storage, just for turning lanes. The long range concept, still

it's just on paper, it's been in the corridor study, it goes into Fuss and O'Neil is a by-pass road from Alumni over to, from Willard to Alumni to Fenn. Very optimistic, but it would be a parallel route to do what you are saying.

Commissioner Pane: For instance, going down towards the Torrington Company?

Ed Meehan: Yes. But you have to go over wetlands, and over two railroads and under high tension wires...

Chairman Hall: But we are not going to solve all that tonight, I think we really have to concern ourselves, take this apart.

Attorney Jacobs: Thank you very much.

Chairman Hall: So at this point, we are going to have you do some bullet points on Friday, and then draft a letter, and our period ends on the 18th.

Ed Meehan: You have to vote on the 9th.

Chairman Hall: All right, and now hopefully you understand why we took this a little bit out of order, we really needed to get that out of the way before we went back to A and B.

- A. **PETITION 56-07 16 Fenn Road and 712 Cedar Street, owned by Fenn Road Associates, LLC and 22 Fenn Road, Stop and Shop Plaza owned by Hayes-Kaufman Newington Associates, LLC, 1481 Pleasant Valley Road, Manchester, CT 06042 and Fenn Road Associates, LLC, applicants represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for zone map amendment, I Industrial to PD Planned Development Zone. Hearing closed February 13, 2008. Sixty five day decision period ends April 18, 2008.**

Commissioner Fox moved that PETITION 56-07 16 Fenn Road and 712 Cedar Street, owned by Fenn Road Associates, LLC and 22 Fenn Road, Stop and Shop Plaza owned by Hayes-Kaufman Newington Associates, LLC, 1481 Pleasant Valley Road, Manchester, CT 06042 and Fenn Road Associates, LLC, applicants represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for zone map amendment, I Industrial to PD Planned Development Zone be postponed to April 9, 2008.

The motion was seconded by Commissioner Pruet. The vote was unanimously in favor of the motion, with seven voting YES.

- B. **PETITION 57-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for Special Exception Section 3.19.1 and 3.15.4 Restaurant with Drive Through Window Service, PD Zone District (Proposed.) Hearing closed February 13, 2008. Sixty five day decision period ends April 18, 2008.**

Commissioner Pruet moved that PETITION 57-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for Special Exception Section 3.19.1 and 3.15.4 Restaurant with Drive Through Window Service, PD Zone District (Proposed) be postponed to April 9, 2008.

The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

- C. **PETITION 58-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for site plan approval for development of 1,800 sq. ft. restaurant and 5,300 sq. ft. bank, PD District (Proposed.) Sixty-five day decision period ends April 18, 2008.**

Commissioner Ganley moved that PETITION 58-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for site plan approval for development of 1,800 sq. ft. restaurant and 5,300 sq. ft. bank, PD District (Proposed.) be postponed to April 9, 2008.

The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with seven voting YES.

- D. **PETITION 61-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for site plan approval for development of 124 room hotel, PD District. (Proposed.) Sixty-five day decision period ends April 18, 2008.**

Commissioner Kornichuk moved that PETITION 61-07 16 Fenn Road and 712 Cedar Street, Fenn Road Associates, LLC owner and applicant represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040 request for site plan approval for development of 124 room hotel, PD District (Proposed) be postponed to April 9, 2008.

The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with seven voting YES.

- E. **PETITION 03-08 – 260 Stamm Road, Marcin and Dariusz Jarosiewicz, 64 Brown Street, New Britain, CT 06053 applicants, Integra Realty Associates, LLC owner request for Special Exception Section 3.17.8 and Section 6.11 auto repair use, I Zone District. Public Hearing closed February 27, 2008. Sixty-five day decision period ends May 2, 2008.**

Commissioner Pane moved that PETITION 03-08 – 260 Stamm Road, Marcin and Dariusz Jarosiewicz, 64 Brown Street, New Britain, CT 06053 applicants, Integra Realty Associates, LLC owner request for Special Exception Section 3.17.8 and Section 6.11 auto repair use, I Zone District be denied the Commission finding that this property is not suitable for motor vehicle repair use because of the following reasons:

- A. The proposed parking area for storage of vehicles for repair and employee parking is too small.
- B. Other building tenants must drive through the motor vehicle parking area to access their part of the building.
- C. Within the proposed motor vehicle parking area another building tenant's overhead door is located for access to their operations.
- D. The applicant has not shown that vehicle circulation within the site and access to parking for other tenants can be safely provided Section 5.2.6 (D)

The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with seven voting YES.

F. PETITION 04-08 – 2451 Berlin Turnpike, Joe Campopiano, 39 Buckland Street, Apartment 1233-3 Manchester, CT 06042, d.b.a. Mother Cluckers Chicken, Seafood, Steak, Ribs, LLC, David Kay owner request for Special Exception Section 3.15.3 Restaurant Use, B-BT Zone District. Public Hearing closed February 27, 2008. Sixty five day decision period ends May 2, 2008.

Commissioner Fox moved that PETITION 04-08 – 2451 Berlin Turnpike, Joe Campopiano, 39 Buckland Street, Apartment 1233-3 Manchester, CT 06042, d.b.a. Mother Cluckers Chicken, Seafood, Steak, Ribs, LLC, David Kay owner request for Special Exception Section 3.15.3 Restaurant Use, B-BT Zone District be denied the Commission finding that the applicant has not demonstrated that adequate on site parking, Section 6.1.1 (c) is available for this use.

The applicant's floor plans indicate a public seating area of 830 square feet, with 12 tables. This restaurant public area requires 17 parking spaces, while a retail use of the same area would require 12 parking spaces. The deficiency of 5 parking spaces is not off set by a surplus of parking at this plaza. In addition, Commission members have observed that the parking to the rear of the building (Kitts Lane side) is not suitable for customer use and the long term storage of trucks at this property further reduces useable parking by eight spaces.

The motion was seconded by Commissioner Pruett. The vote was unanimously in favor of the motion, with seven voting YES.

G. PETITION 05-08 – 2451 Berlin Turnpike, Joe Campopiano, 39 Buckland Street, Apartment 1233-3 Manchester, CT 06042, d.b.a. Mother Cluckers Chicken, Seafood, Steak, Ribs, LLC, David Kaye owner request for Special Permit Section 6.6 Liquor Permit Restaurant use, B-BT Zone District. Public hearing closed February 27, 2008. Sixty five day decision period ends May 2, 2008.

Commissioner Pruett moved that PETITION 05-08 – 2451 Berlin Turnpike, Joe Campopiano, 39 Buckland Street, Apartment 1233-3 Manchester, CT 06042, d.b.a. Mother Cluckers Chicken, Seafood, Steak, Ribs, LLC, David Kaye owner request for Special Permit Section 6.6 Liquor Permit Restaurant use, B-BT Zone District be denied because the requested Special Exception for a restaurant use has not been approved by the Commission.

The motion was seconded by Commissioner Ganley. The vote was in favor of the motion, with six voting YES, and one abstention (Fox.)

H. PETITION 06-08 3465 Berlin Turnpike, Sam's Club, Sam's East, Inc. applicant, Newington-Berlin Retail, LLC owner, represented by John W. Knuff, Esq., 147 North Broad Street, Milford, CT 06460 request for Special Permit Section 6.6 Liquor Sales, PD Zone District.

Commissioner Ganley moved that PETITION 06-08 3465 Berlin Turnpike, Sam's Club, Sam's East, Inc. applicant, Newington-Berlin Retail, LLC owner, represented by John W. Knuff, Esq., 147 North Broad Street, Milford, CT 06460 request for Special Permit Section 6.6 Liquor Sales, PD Zone District be approved the Commission finding that the applicant has demonstrated compliance with the Zoning standards for this use.

The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with seven voting YES.

I. PETITION 10-08 – Newington Kiwanis Club applicant, Town of Newington owner Municipal parking lot request for Special Exception Section 3.2.8 charitable and civic event Kiwanis Flea Markets, B-TC Zone District.

Commissioner Kornichuk moved that PETITION 10-08 – Newington Kiwanis Club applicant, Town of Newington owner Municipal parking lot request for Special Exception Section 3.2.8 charitable and Civic Event Kiwanis Flea Markets, B-TC Zone District be approved with the following conditions:

1. The event dates shall be for the period of April 20th to June 29th and September 7th to October 26, 2008, Sundays, 7:00 a.m. to 4:00 p.m.
2. Submission of the Certificate of Insurance naming the Town of Newington must be filed with the Director of Administrative Services at least 10 days prior to the first flea market event.
3. Temporary directional signage for each flea market event may be posted at the driveway entrances and nearby intersections to assist motorists. This signage shall not be posted until the morning of the market and removed within two (2) hours after each closing.
4. Temporary 4' x 8' ground sign located at 39 East Cedar Street (Eddy Property) advertising the "Big K Flea Market" for the period between April to September is permitted.
5. Food vendors and portolets shall be approved by the Central Connecticut Health District.
6. Event Applicant Form, Town Ordinance Section 14-2 shall be completed and submitted to the Town Manager.

The motion was seconded by Commissioner Pane.

Commissioner Pane: Madam Chairman, I would like to, if it's acceptable to everybody, I would like to grant this for a period of two or three years for them, and also, give them a little flexibility on the signage, if nobody has a problem with it, if they find another location for another sign of the same size, give them two sign locations, seeing that they are trying to raise money, and just leave it, as if they do find one, great, if not, then the one is fine, but just give them a little bit of flexibility since it's a good organization.

Commissioner Kornichuk: I just have one comment on that, I agree with Domenic but how do we, the dates, the dates won't always be.....

Commissioner Pane: So they just have to come in and give us the dates by letter.

Commissioner Kornichuk: That's fine with me.

Commissioner Pane: I would imagine that, submit us the dates, in writing, but they won't have to come back to the Commission and go through another public hearing, and if you want, we could try it on a two year basis first, and then see how it works.

Commissioner Kornichuk: Well, I have no problem with it, the only thing that I could see would be the date.

Chairman Hall: I know that the reason that they asked for three was that this particular set of officers will be in position for the next three years, so that way, it would be up to the next group to decide even if they wanted to continue doing it, so that's why they asked for the three.

Ed Meehan: Okay, then do you want to add Number 7 that future flea market events are approved for a period of three years, dates to be provided to town staff, something like that?

Commissioner Fox: Yes, a letter to you letting you know the dates, and then you just acknowledge.

Chairman Hall: And as far as the sign, can you just add that to four, maybe two 4' x 8' ground signs, one to be located at 39 East Cedar Street, another to be determined.

Commissioner Pane: Well, to be approved by the Town Planner. If a second temporary 4' x 8' ground sign is requested, the Town Planner can approve the second location.

Ed Meehan: The second ground sign may be approved upon request to Town Planner. It's for three years?

Chairman Hall: It would be for three years. Does the petitioner agree to the amendment?

Commissioner Kornichuk: Yes I do.

Chairman Hall: And the second...

Commissioner Pane: I seconded it, I do.

The vote was unanimously in favor of the motion as amended, with seven voting YES.

VIII. PETITIONS FOR SCHEDULING (TPZ April 9, 2008 and April 23, 2008)

- A. PETITION 14-08 – Market Square, Newington Chamber of Commerce, 1046 Main Street, Newington, CT 06111 contact David Johnson, 3153 Berlin Turnpike, Newington, CT 06111 Town of Newington owner, request for Special Exception Section 3.2.8 Special Event Car Show, June 12, 2008. Schedule for Public Hearing April 9, 2008.
- B. PETITION 15-08 – 580 Church Street, Three Angels Seventh Day Adventist Church, owner and applicant, represented by James Cassidy, Hallisey, Pearson & Cassidy, Engineering Associates, 35 Cold Spring Road, Rocky Hill, CT 06067 Site Plan Modifications to Petition 04-05 approved March 23, 2005. Schedule for April 9, 2008.

Ed Meehan: On the first one, the car show in talking to Chamber people and Dave Johnson, they want to do that again this year, they want to move their presentation to the 23rd. Someone is on vacation I guess, so the 23rd for that, if that works for the Commission.

Three Angels Church, at staff level we, I'm saying definitely they should come back because their site plan has some changes that warrant the Commission's review. I have not seen the building architecture yet, the Building Department has got part of it, the architect has not provided me with a set of plans. Based on what I have seen, what Pete Hobbs has, they may have to come back and start over for the Special Exception. The Special Exception wording when this was approved was, changes to the architecture shall require Commission approval, and they have changed some of the features on the building, and I think it may warrant a new public hearing. If that is the case then, it would have to be pushed out to the 23rd then, because we need time to advertise the

public hearing. They were supposed to have those plans to me before tonight's meeting. They are working with a new architect out of New Haven. I'll keep you informed on that. There is a third application, I haven't seen the plans, Bongiovanni's Group asked me to mention it, it hasn't come through yet, a modification to the site plan for Reno Tool which was approved at the same time they got approval for the new building on Rockwell. It was a master plan done for that site, to add to the back of 170 Pane Road. They are trying to get that in for the 9th, as a site plan presentation, but unless they have it in here and we can go through it, it will be the 9th, or the 23rd. That doesn't require any wetland review.

XI. PUBLIC PARTICIPATION

(For items not listed on agenda)

None.

X. REMARKS BY COMMISSIONERS

None.

XI. STAFF REPORT

None.

XII ADJOURNMENT

Commissioner Kornichuk moved to adjourn the meeting. The motion was seconded by Commissioner Fox. The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary